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TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10049

DELEGATING THE AUTHORITY OF THE PRESIDENT TO PRESCRIBE CLOTHING ALLOWANCES, AND CASH ALLOWANCES IN LIEU THEREOF, TO ENLISTED MEN IN THE ARMED FORCES

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Armed Forces, it is ordered as follows:

1. The Secretary of Defense in respect of the Army, Navy, Air Force, Marine Corps, Naval Reserve, and Marine Corps Reserve, and the Secretary of the Treasury in respect of the Coast Guard and the Coast Guard Reserve, are hereby authorized and directed, after appropriate consultation with the Director of the Bureau of the Budget, to perform the functions vested in the President by the last paragraph of section 10 of the Pay Readjustment Act of 1942, as amended (37 U. S. C. 110), relative to prescribing the quantity and kind of clothing which shall be furnished annually to enlisted men of the aforesaid services and relative to prescribing the amount of the cash allowance to be paid to such enlisted men in any case in which clothing is not so furnished to them.

2. The quantity and kind of clothing, and any cash allowances in lieu thereof, prescribed by the Secretary of the Treasury hereunder shall, as far as practicable, be in conformity with those prescribed by the Secretary of Defense in respect of the Navy and Naval Reserve.

3. Existing regulations governing the subject matters of this order, including such regulations prescribed by Executive order, shall, subject to the termination of any such Executive order by its own terms, remain in effect until modified, revoked, or superseded by action taken pursuant to this order.

HARRY S. TRUMAN

THE WHITE HOUSE,
April 2, 1949.

[F. R. Doc. 49-2565; Filed, Apr. 4, 1949; 10:04 a. m.]

TITLE 7—AGRICULTURE

Chapter VIII—Production and Marketing Administration (Sugar Branch), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas

PART 814—ALLOTMENT OF SUGAR QUOTAS

DECISION AND ORDER OF SECRETARY OF AGRICULTURE ALLOTTING 1949 SUGAR QUOTAS FOR PUERTO RICO

Basis and purpose. This allotment order is issued under section 205 (a) of the Sugar Act of 1948 (hereinafter called the "act") for the purpose of allotting the 1949 sugar quota for Puerto Rico for consumption in the continental United States (including raw sugar transferred for further processing and shipment within the direct consumption portion of such quota) and the 1949 sugar quota for local consumption in Puerto Rico among persons (1) who bring Puerto Rican raw sugar into the continental United States or transfer such sugar for further processing and shipment to the continental United States as direct consumption sugar, and (2) who market sugar for local consumption in Puerto Rico. The basis of the order is more fully explained below.

The sugar quota for Puerto Rico for consumption in the continental United States is referred to herein as "mainland quota" and allotments thereof are referred to as "mainland allotments." The sugar quota for consumption in Puerto Rico and allotments thereof are referred to respectively as "local quota" and "local allotments."

Omission of recommended decision and effective date. The record of the public hearing regarding allotment of the 1949 sugar quotas for Puerto Rico shows that the total quantity of Puerto Rican sugar available for marketing in 1949 is presently estimated at 1,239,428 short tons, raw value (R. 6). This quantity exceeds the sum of the mainland and local quotas by 234,428 tons (R. 6). Some of the allotments made by this order are small and could be exceeded by the marketing

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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of a comparatively small amount of sugar. Since this proceeding was instituted for the purpose of issuing allotments to prevent disorderly marketing of sugar and to afford all interested persons an equitable opportunity to market, it is imperative that this order become effective at the earliest possible date in order to accomplish that end. Accordingly, it is hereby found that due and timely execution of the functions imposed upon the Secretary under the act imperatively and unavoidably requires omission of a recommended decision in this proceeding. It is hereby further found that compliance with the 30-day effective date requirement of the Administrative Procedure Act (60 Stat. 237) is impracticable and contrary to the public interest and, consequently, this order shall be effective when published in the FEDERAL REGISTER.

Preliminary statement. Section 205 (a) of the act requires the Secretary to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar within the quota for the area. Section 205 (a) also requires that such allotment be made after such hearing and upon such notice as the Secretary may by regulation prescribe.

On January 3, 1949, the Acting Secretary of Agriculture, pursuant to the applicable rules of practice and procedure (7 CFR 801.1, et seq.) issued a notice of a public hearing to be held at San Juan, Puerto Rico, in the Auditorium of the School of Tropical Medicine on January 18, 1949, at 10:00 a. m., for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the 1949 mainland quota (including raw sugar transferred for further processing and shipment within the direct-consumption portion of the quota) and the 1949 local quota among persons (1) who bring Puerto Rican raw sugar into the continental United States or transfer such sugar for further processing and shipment to the continental

United States as direct-consumption sugar, and (2) who market sugar for local consumption in Puerto Rico. A statement of the subjects and issues involved in the hearing was included in the notice.

Section 205 (a) of the act requires a preliminary finding by the Secretary as a condition precedent to the calling of a hearing. Accordingly, the notice of hearing issued by the Secretary provides in part as follows:

> Pursuant to the authority contained in section 205 (a) of the Sugar Act of 1948 (61 Stat. 922) and in accordance with the applicable rules of practice and procedure (12 F. R. 8225, 13 F. R. 127, 2063), and on the basis of information before me, I, Charles F. Brannan, Secretary of Agriculture, do hereby find that the allotment of the 1949 sugar quota for Puerto Rico for consumption in the continental United States, including the allotment of the direct-consumption portion thereof, and the 1949 sugar quota for local consumption in Puerto Rico is necessary to prevent disorderly marketing and importation of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States and Puerto Rico, respectively, and hereby give notice that public hearings will be held at San Juan, Puerto Rico, in the Auditorium of the School of Tropical Medicine on January 18 and 20, 1949, at 10:00 a. m.

The hearing was held at the time and place specified in the notice.

Summary of testimony. With respect to the necessity for making allotments, the Government witness testified at the hearing that the estimated quantity of Puerto Rican sugar available for marketing in 1949 exceeds the combined mainland and local quotas by such an amount as clearly to indicate that allotment of these quotas is necessary (R. 6). This testimony on the necessity for allotment was not controverted by any witness.

With respect to the manner in which the allotment should be made, the Government witness proposed that total mainland and local marketings for each allottee be first established by giving 45 percent weight to processings from proportionate shares measured by production from the 1948–49 crop, 10 percent weight to past marketings measured by the total marketings, both mainland and local, during the years 1947 and 1948, and 45 percent weight to ability to market measured by production from the 1948–49 crop plus carry-over on January 1, 1949, of 1947–48 crop sugar (R. 7–15; Exs. 3, 4 and 5). The witness then proposed that such total marketings for each allottee be divided into a mainland allotment and a local allotment on the basis of the division of each processor's total marketings during the years 1947 and 1948 between the mainland and local markets. The witness recommended further that allottees be permitted to exchange with each other quantities of either allotment for like quantities of the other (R. 12).

In support of his proposal the Government witness stated that the processings of sugar from sugarcane of the 1948–49 crop to which proportionate shares applied afford the best measure of this statutory standard and, being directly related to the grower's opportunity to market sugarcane in 1949, afford protection to producers of sugarcane (R. 9). As to the measure of past marketings, the witness stated that a recent Court decision held that past marketings should be measured by marketings within the last half dozen years or at least the more recent of them. Because of the distortions of production patterns in the first 4 of the last 6 years, the years 1947 and 1948 were considered a more representative period of marketing history and, therefore, it was proposed that past marketings be measured by marketings in the calendar years 1947 and 1948. The witness stated that the best available measure of ability to market appeared to be the quantity of sugar which each processor would have available for marketing in 1949, measured by the total production from the 1948–49 crop plus the quantity of 1947–48 crop sugar carried over from the previous year (R. 11). In regard to the manner in which the total marketings are divided between mainland and local allotments, the Government witness explained, in support of a division based on the total marketings during 1947 and 1948, that this would give recognition to recent developments in marketing practices (R. 14).

The witness recommended that the past practice of permitting exchanges between allottees of equal quantities of mainland and local allotments be continued in the interest of marketing efficiency (R. 12).

Since the allotments recommended were based on estimates of production from the 1948–49 crop, the Government witness proposed that after the allotment order is issued it should be revised on the basis of actual 1948–49 crop production figures. Meanwhile, in order to safeguard against the possibility of a processor exceeding his final allotment, it was proposed that each processor be permitted to market only 80 percent of each allotment until such revision in the allotment order can be made (R. 15).

Of the processors represented, seventeen favored the Government proposal for making allotments, one favored the method of determining total marketings but objected to the division between mainland and local allotments, one objected to the method for determining total marketings but favored the method for dividing the total between mainland and local allotments, while four opposed adoption of the proposal (73–77). Opposition to the Government proposal was based in large part on the assertion that past marketings should be measured by the six-year period 1943–1948 and that equal weight should be given to the three statutory factors (R. 73, 74, 76).

Much of the hearing was devoted to the questioning of the Government witness on the Government proposal and other related subjects and issues. A number of witnesses, however, testified for the purpose of explaining the positions taken by individual processors with respect to the Government proposal.

Of those opposing outright the Government proposal, only Central Aguirre Sugar Company, a Trust, proposed a different method of allotment. The witness for Central Aguirre proposed that allotments be made on the basis of equal weightings for each of the three statutory factors and that past marketings be measured by the average marketings for the past six years (R. 81 and 82). The witness for South Porto Rico Sugar Company concurred in this proposal (R. 82 and 83).

Basis of allotment. Section 205 (a) of the act reads in pertinent part as follows:

> * * * Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; and the ability of such person to market or import that portion of such quota or proration thereof allotted to him. * * *

All three factors specified in the foregoing provision of law are applied in the allotment of the quotas under consideration.

The statute does not specify the weight to be given to each factor, but merely requires that the allotment be made in a manner that will assure a fair, efficient, and equitable distribution of the quota. The allotments made herein are based on a formula which gives 45 percent weight to processings from sugarcane to which proportionate shares pertained measured by such processings from the 1948–49 crop, 10 percent weight to past marketings measured by the average of such marketings during the years 1943–48, inclusive, and 45 percent weight to ability to market measured by the production of sugar from the 1948–49 crop, plus the carry-over on January 1, 1949, of 1947–48 crop sugar. The allotments resulting from the application of this formula are deemed to be fair and equitable and result in an efficient distribution of the quotas involved.

The factor of proportionate shares is given heavy weighting because it is directly related to the grower's opportunity to market sugarcane. The factor of ability to market also is given heavy weighting because the relative quantities of sugar to be carried over into 1950 are directly related to this factor as measured herein. The termination of operations by several processors and special marketing problems and controls in recent years adversely affected the distribution of marketings in these years as a basis for an equitable distribution in 1949. Accordingly, a weighting of only 10 percent is given to past marketings and the other two factors are weighted equally. (R. 9, 10, 11)

The allotments are established by first calculating for each allottee the total quantity of sugar which such allottee may market in both the mainland and local markets. This is done by first converting the data for each of the factors for each processor to a percentage of the total for all processors, then applying the indicated weightings to such percentages, and finally applying the sum of the weighted percentages for each processor to the sum of the quotas (1,005,000 tons). For each processor a local allotment is determined by applying to such total quantity the percentage that each processor's local marketings

were of its total marketings in the calendar years 1947 and 1948, and adjusting pro rata so that the total of such allotments will equal the local quota. The mainland allotment for each processor is determined by subtracting such local allotment from the total quantity that it may market.

By far the preponderant part of the sugar which will be marketed within the mainland and local quotas for Puerto Rico for 1949 will be sugar produced from the 1948–49 crop (R. 6; Ex. 4). Moreover, the use of processings from the 1948–49 crop will afford substantial protection to producers of sugarcane (R. 9). It is deemed appropriate, therefore, to measure the factor of processings from proportionate shares by such processings from the 1948–49 crop. No objection was raised at the hearing to the use of this measure of processings from proportionate shares.

It was recommended at the hearing on behalf of several interested persons that past marketings be given a weighting equal to the other two factors. For reasons explained above, the factor of past marketings is deemed less significant than the other two factors specified in the act. Objection was also made at the hearing to the use of the years 1947 and 1948 as the measure of past marketings. Objection to the use of the years 1947 and 1948 was expressed at the hearing on the ground that unfavorable production conditions prevailing in certain portions of the growing area during such years resulted in abnormal marketings during that period. Although the record reveals that neither the period of the past six years nor that of the past two years may be considered wholly representative of past marketings for all Puerto Rican processors, the period 1943 to 1948, inclusive, is deemed to be the best available measure of past marketings.

The best available measure of ability to market Puerto Rican sugar in 1949 is the amount of sugar which each processor will have available for marketing during the calendar year. Therefore, the factor of ability has been measured by sugar produced from the 1948–49 crop plus the inventory of sugar on hand January 1, 1948, from 1947–48 production. It was generally agreed at the hearing that this measure of ability was fair and equitable.

Each processor's marketings in the mainland and local markets in 1947 and 1948 are used to divide total marketings for the reason that such division gives recognition to the shift in local consumption from raw to refined sugar which has been progressive over the past several years (R. 14). This shift has had an important effect upon the amount which each processor has supplied to the local market. It is, therefore, believed that the use of the recent years 1947 and 1948 will assure more orderly marketing of sugar within the respective quotas and reduce the necessity for exchanges of allotments, thereby promoting marketing efficiency.

Under allotment orders issued in prior years, exchanges of local for mainland allotments between Puerto Rican processors were permitted when approved by the local representative of the Department in Puerto Rico. Although allotments established under this order will involve fewer exchanges of this kind, it is recognized that some adjustments in the distribution of a processor's marketings under local and mainland allotments will result in greater efficiency in marketing. Therefore, in response to requests made at the hearing the order permits such exchanges.

Since the allotments established by this order are based upon estimates of production by individual processors, it is considered desirable to limit the amount of each allotment which may be marketed prior to September 1, 1949, to 80 percent of such allotment. This will enable the Department to obtain final production figures as a basis for a revised order prior to that date. This limitation is considered necessary to prevent any processor from marketing more than the share of the quota to which he will ultimately be entitled on the basis of his actual production. It was urged at the hearing that arrangements be made whereby allottees will be permitted to deliver to refiners for further processing raw sugar in amounts up to the full initial allotment in order not to interrupt the continuous operation of a refinery until all needed supplies of refined sugar have been refined. Such an arrangement is not properly a part of this order. However, a notice of proposed rule making is being issued preparatory to appropriate amendment of regulations relating to handling of "excess-quota" sugar (7 CFR, Part 816).

Findings. On the basis of the record of the hearing, I hereby find that:

1. The three statutory standards of "processings from proportionate shares," "past marketings," and "ability to market," are applicable to the allotment of the mainland and local quotas for Puerto Rico and the use of all of these standards is mandatory.

2. For the calendar year 1949 Puerto Rican processors will have available for marketing an estimated 1,239,428 short tons of sugar and this amount exceeds the combined mainland and local quotas by 234,428 short tons.

3. Processings of sugar from proportionate shares of the 1948–49 sugarcane crop constitute a fair and equitable measure of the standard "processings from proportionate shares" and when so measured the quantity of sugar applicable to each processor is set forth in column 1 of the table below.

4. The best available measure of past marketings for each processor is the average of such marketings during the years 1943–48, inclusive, and the past marketings of each processor so measured is set forth in column 2 of the table below.

5. The quantity of sugar which each processor will have available for marketing during 1949, representing production from the 1948–49 sugarcane crop, plus the carryover on January 1, 1949, from the 1947–48 crop, constitutes a fair and equitable measure of the ability of each processor to market sugar during 1949 and such quantity for each processor is set forth in column 3 of the table below.

6. The years 1947 and 1948 are deemed to be representative for purposes of dividing the total for each processor into a mainland allotment and a local allotment. The percentages that the marketings for local consumption in Puerto Rico during the years 1947 and 1948 are of the sum of such marketings and marketings for shipment to the continental United States during these years is set forth in column 4 of the table below.

[Short tons, raw value]

Processor	Proprotionate shares [1] (1)	Past marketings [2] (2)	Ability to market [3] (3)	Marketed locally 1947–48 [4] (4)
				Percent
Antonio Roig, Sucesores, S. en C.	57,000	42,918	57,008	43.3401
Arturo Lluberas, (estate of) y Sobrinos (San Francisco)	7,000	6,469	7,000	25.5061
Asociacion Azucarera Cooperativa (Lafayette)	40,000	32,181	40,000	1.8277
Calaf Collazo, Jaime y Federico (Monserrate)	24,000	16,778	24,000	4.2934
Central Aguirre Sugar Co., a trust	118,000	105,523	118,108	3.3854
Central Coloso, Inc.	52,500	42,974	52,500	2.2576
Central Eureka, Inc.	36,750	26,825	36,750	5.6316
Central Igualdad, Inc.	53,722	38,977	53,722	37.1714
Central Juanita, Inc.	30,564	24,512	30,564	8.7700
Central San Jose, Inc.	21,200	15,156	21,200	2.1201
Central San Vicente, Inc.	53,430	38,418	53,430	4.4911
Central Victoria, Inc.	25,053	19,147	25,053	3.2576
Compania Azucarera del Camuy, Inc. (Rio Llano)	16,000	13,957	16,000	3.4627
Compania Azucarera del Toa	31,348	20,923	31,348	1.1596
Cooperativa Azucarera Los Canos	31,050	23,800	31,050	3.0757
Corporacion Azucarera Sauri & Subira (Constancia Ponce)	11,500	8,656	11,500	9.0285
Eastern Sugar Associates, a Trust	145,350	106,760	145,350	12.4605
Fajardo Sugar Co.	112,000	89,866	112,000	.0043
Land Authority of Puerto Rico	83,600	68,107	83,600	1.9735
Mario Mercado e Hijos (Rufina)	34,740	29,307	34,740	7.4680
Mayaguez Sugar Co., Inc. (Rochelaise)	10,000	10,004	10,000	7.9294
Plata Sugar Co.	41,125	24,673	41,125	3.9337
Soller Sugar Co.	12,500	7,418	12,500	0
South Porto Rico Sugar Co. of Puerto Rico	108,000	101,264	108,000	17.0948
Sucesion de Jose Gonzalez and Co., S. en C. (Guamani)	10,750	10,414	10,750	9.6406
Sucesion de J. Serralles (Mercedita)	65,000	60,760	65,000	19.2650
Valdivieso, Jorge Lucas P. (Pellejas)	7,130	4,436	7,130	18.2721
Total	1,239,312	990,223	1,239,428	9.9246

[1] Estimated 1948–49 crop production.
[2] Total marketings, continental and local, direct and by transfer—average 1943–48.
[3] Estimated 1948–49 crop production plus Jan. 1, 1949 carryover of 1947–48 crop sugar.
[4] Marketings for local consumption in Puerto Rico in 1947 and 1948 as a percent of marketing both for local consumption and for shipment to the continental United States in those years.

Conclusions. On the basis of the foregoing and after consideration of the briefs submitted by interested persons following the hearing, it is hereby determined and concluded (1) that the allotment of the 1949 mainland quota for Puerto Rico, including raw sugar transferred for further processing and shipment within the direct-consumption portion of the quota, and the 1949 local quota for Puerto Rico is necessary to prevent disorderly marketing of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States and in Puerto Rico; (2) that in order to make a fair, efficient, and equitable distribution of such quotas as required by section 205 (a) of the act, (a) distribution of the total of the two quotas should be made by giving 45 percent weight to processings of sugar from sugarcane to which proportionate shares pertained, measured by such processings from the 1948–49 sugarcane crop, 10 percent weight to past marketings, measured by the average of such marketings by each processor during the years 1943–48, inclusive, and 45 percent weight to ability to market, measured by the total production of sugar from the 1948–49 sugarcane crop, plus the carryover on January 1, 1949, from the 1947–48 crop sugar; and (b) the quantity so determined should be divided into local and mainland allotments on the basis of the division between local and mainland marketings for each processor during the years 1947 and 1948. It is hereby further determined and concluded (1) that an efficient distribution of the quotas requires exchanges between allottees of quantities of mainland allotment for like quantities of local allotment, subject to the approval of the Director, Caribbean Area Office, Production and Marketing Administration, San Juan, Puerto Rico, and (2) that pending the availability of final production figures from the 1948–49 sugarcane crop, each processor should be limited in its marketings prior to September 1, 1948, to 80 percent of each allotment established herein.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered:

§ 814.1 *Allotments of 1949 sugar quotas for Puerto Rico*—(a) *Allotments.* The 1949 sugar quota for Puerto Rico for consumption in the continental United States, including raw sugar to be further processed and shipped within the direct consumption portion of such quota, amounting to 910,000 short tons of sugar, raw value, and the 1949 sugar quota for local consumption in Puerto Rico, amounting to 95,000 short tons of sugar, raw value, are hereby allotted to the following processors in amounts which appear in columns (1) and (3) opposite their respective names:

[Short tons, raw value]

Processor	Mainland allotment		Local allotment	
	Total (1)	80 percent (2)	Total (3)	80 percent (4)
Antonio Roig, Sucesores, S. en C.	26,968	21,574	18,990	15,192
Arturo Lluberas, (estate of) y Sobrinos (San Francisco)	4,363	3,491	1,403	1,122
Asociacion Azucarera Cooperativa (Lafayette)	31,893	25,514	565	452
Calaf Collazo, Jaime y Federico (Monserrate)	18,432	14,746	787	630
Central Aguirre Sugar Co., a trust	93,739	74,991	3,126	2,501
Central Coloso, Inc.	41,758	33,406	918	734
Central Eureka, Inc.	27,956	22,365	1,587	1,270
Central Igualdad, Inc.	27,866	22,293	15,296	12,237
Central Juanita, Inc.	22,720	18,176	2,073	1,658
Central San Jose, Inc.	16,667	13,334	344	275
Central San Vicente, Inc.	41,057	32,846	1,836	1,469
Central Victoria, Inc.	19,600	15,680	628	502
Compania Azucarera del Camuy, Inc. (Rio Llano)	12,661	10,129	432	346
Compania Azucarera del Toa	24,724	19,779	277	222
Cooperativa Azucarera Los Canos	24,341	19,473	735	588
Corporacion Azucarera Sauri & Subira (Constancia Ponce)	8,473	6,778	798	638
Eastern Sugar Associates, a trust	103,023	82,418	13,889	11,111
Fajardo Sugar Company	90,855	72,684	4	3
Land Authority of Puerto Rico	66,647	53,318	1,278	1,022
Mario Mercado e Hijos (Rufina)	26,311	21,049	2,017	1,614
Mayaguez Sugar Company, Inc. (Rochelaise)	7,685	6,148	628	503
Plata Sugar Company	31,299	25,039	1,219	975
Soller Sugar Company	9,875	7,900	0	0
South Porto Rico Sugar Co. of Puerto Rico	74,575	59,660	14,521	11,617
Sucesion de Jose Gonzalez and Co., S. en C. (Guamani)	8,084	6,467	818	654
Sucesion de J. Serralles (Mercedita)	43,759	35,007	9,846	7,877
Valdivieso, Jorge Lucas P. (Pellejas)	4,669	3,735	985	778
Total	910,000	728,000	95,000	76,000

(b) *Producers' marketings under allotments.* If settlement with producers of sugarcane is made in sugar, marketings of such sugar of such producers shall be charged to the allotments of the processor. Each processor shall reserve a share of each of its allotments for the marketings of each such producer. Such share shall be equal to the same percentage of the allotment that the producer's 1948–49 crop sugar is of the processor's total production of 1948–49 crop sugar.

(c) *Restrictions on marketing.* (1) Prior to September 1, 1949, each processor named in paragraph (a) of this section, together with the producers with whom it shares its allotments under paragraph (b) of this section, is hereby prohibited from bringing into or marketing for entry into the continental United States for consumption therein, or from marketing for local consumption in Puerto Rico, any sugar in excess of 80 percent of the allotments established in paragraph (a) of this section.

(2) All persons who acquire raw sugar for further processing and resale as direct-consumption sugar are hereby prohibited from marketing sugar for local consumption in Puerto Rico in excess of the amounts of sugar acquired for such purpose within the limitations specified in paragraphs (a) and (c) of this section.

(d) *Transfer or exchange of allotments.* The allotments established in paragraph (a) of this section, or producers' shares thereof established under paragraph (b) of this section shall not be transferred or exchanged without the approval of the Director, Caribbean Area, Production and Marketing Administration, United States Department of Agriculture, San Juan, Puerto Rico.

(e) *Specific charges against allotments.* Sugar produced in Puerto Rico which is brought into the continental United States for consumption therein or marketed for local consumption in Puerto Rico after December 31, 1948, but prior to the effective date of this order shall be charged to the applicable allotment of the processor who processed such sugar. (Sec. 205, 61 Stat. 926; 7 U. S. C. Supp. 1, 1115)

Done at Washington, D. C., this 31st day of March 1949. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CHARLES F. BRANNAN, *Secretary.*

[F. R. Doc. 49–2503; Filed, Apr. 4, 1949; 8:48 a. m.]

[Sugar Reg. 814.2]

PART 814—ALLOTMENT OF SUGAR QUOTAS

ALLOTMENT OF DIRECT CONSUMPTION PORTION OF 1949 SUGAR QUOTA FOR PUERTO RICO

Basis and purpose. This allotment order is issued under section 205 (a) of the Sugar Act of 1948 (herein called "act"), for the purpose of allotting the portion of the 1949 sugar quota for Puerto Rico which may be filled by direct-consumption sugar among persons who market such sugar in the continental United States. The basis and purpose of the order are more fully explained below.

Omission of recommended decision and effective date. The record of the public hearing regarding the subject of this order shows that the capacity of Puerto Rican refineries to produce direct-consumption sugar far exceeds the sum of 126,033 short tons of such sugar which may be marketed in the continental United States under the act and the quantity of such sugar needed for local consumption in Puerto Rico (R. 18, Ex. 4). The proceeding to which this order relates was instituted for the purpose of allotting the direct-consumption portion of the quota to prevent disorderly marketing and to afford all interested persons an equitable opportunity to market direct-consumption sugar in the continental United States (Ex. 1). Some of the allotments made by this order are small and could be exceeded if issuance of this order is delayed. Therefore, it is imperative that this order become effective at the earliest possible date in order fully to effectuate the purposes of section 205 (a) of the act. Accordingly, it is

hereby found that due and timely execution of the functions imposed upon the Secretary under the act imperatively and unavoidably requires the omission of a recommended decision in this proceeding. It is hereby further found that compliance with the 30-day effective date requirement of the Administrative Procedure Act (60 Stat. 237) is impracticable and contrary to the public interest and, consequently, this order shall be effective when published in the FEDERAL REGISTER.

Preliminary statement. Section 207 (b) of the act provides that not more than 126,033 short tons, raw value, of the sugar quota for Puerto Rico for any calendar year may be filled by direct-consumption sugar.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota or proration thereof whenever he finds that allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for the area. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulation prescribe.

On January 3, 1949, the Acting Secretary, pursuant to the applicable rules of practice and procedure (7 CFR 801.1 et seq.) issued a notice of a public hearing to be held in San Juan, Puerto Rico, on January 20, 1949, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the direct-consumption portion of the 1949 sugar quota for Puerto Rico.

As stated above, the act requires a preliminary finding of necessity for allotment as a condition precedent to the calling of a hearing. Accordingly, the notice of hearing provided in part as follows:

> Pursuant to the authority contained in the Sugar Act of 1948 (61 Stat. 922) and in accordance with the applicable rules of practice and procedure (12 F. R. 8225, 13 F. R. 127, 2063), and on the basis of information before me, I, Charles F. Brannan, Secretary of Agriculture, do hereby find that the allotment of the 1949 sugar quota for Puerto Rico for consumption in the continental United States, including the allotment of the direct consumption portion thereof, and the 1949 sugar quota for local consumption in Puerto Rico is necessary to prevent disorderly marketing and importation of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States and Puerto Rico, respectively, and hereby give notice that public hearings will be held at San Juan, Puerto Rico, in the auditorium of the School of Tropical Medicine on January 18 and 20, 1949, at 10:00 a. m.

The hearing was held at San Juan, Puerto Rico, on the date specified in the notice.

Summary of evidence. Before presenting any testimony on the matter of allotting the direct-consumption portion of the 1949 sugar quota for Puerto Rico, counsel for Central Roig Refining Company (herein called Roig) and Western Sugar Refining Company (herein called Western) and counsel for the Government of Puerto Rico expressed the view that section 207 (b) of the act, which contains the limitation on the entry of Puerto Rican direct-consumption sugar into the continental United States, is unconstitutional. Counsel referred to the brief filed in "Central Roig Refining Company and Western Sugar Refining Company v. Secretary of Agriculture" (decided November 24, 1948) in the United States Court of Appeals for the District of Columbia, for the reasons supporting this view. Accordingly, counsel for Roig and Western objected to the proposed action and enforcement of section 207 (b) of the act, but stated that they would participate fully in the hearing in order to protect their right to allotments, reserving the right to raise in appropriate court action the question of the validity of this proceeding and any order issued in connection therewith. Counsel for Porto Rican American Sugar Refinery, Inc. (herein called Porto Rican American) and counsel for the Government of Puerto Rico similarly reserved such right.

With respect to the necessity for making allotments the Government witness stated that the approximate annual plant capacity for Puerto Rican refiners is in excess of 450,000 short tons of sugar based on 1948 production rates (R. 18, Ex. 4). From 75,000 to 90,000 short tons of refined sugar are distributed annually for consumption in Puerto Rico, while 126,033 short tons of direct-consumption sugar, most of which is refined, may be marketed in the continental United States. The total of such marketings is well below the indicated capacity of these refiners. In view of this situation the Secretary of Agriculture found that allotments are necessary to prevent disorderly marketing and to assure each refiner its fair share of the continental market for Puerto Rican direct-consumption sugar (R. 18). This testimony on the necessity for allotments in 1949 was supported by all witnesses testifying on this question (R. 11–15, 156).

With respect to the manner in which allotments should be made, the Government witness proposed the allotment of the 126,033 short tons (except for a small unallotted reserve for marketing Puerto Rican raw sugar for direct-consumption equal to the quantity so marketed in 1948) on the basis of the three standards provided in section 205 (a) of the act, namely, processings of sugar from sugar cane to which proportionate shares pertained, past marketings, and ability to market such sugar (R. 19).

It was proposed that a 10 percent weight be given the standard "processings of sugar * * * from * * * sugarcane to which proportionate shares * * * pertained" and that a 45 percent weight be given to each of the other two standards (R. 19). The witness then proposed that for each refiner the "proportionate shares" standard be measured by total production of refined and turbinado sugar for the 12-month period ended October 31, 1948; that the "past marketings" standard be measured by 1943–48 average annual entries of direct-consumption sugar into the continental United States; and that the "ability to market" standard be measured by entries of direct-consumption sugar into the continental United States during the calendar year 1948 (R. 20). The Government witness testified that in prior years the Department of Agriculture had deemed the proportionate shares standard inapplicable to the allotment of the direct-consumption portion of the Puerto Rican sugar quota for the reason that it was understood to relate only to sugar which resulted directly from the processing of sugarcane. The witness stated that, since the court in the Roig case interpreted this standard as applicable in all allotments, it is included as a part of the Government proposal. It was proposed that, since the three largest refiners in Puerto Rico do not process sugar directly from sugarcane, this standard be measured by the quantity of refined sugar produced entirely from sugarcane or raw sugar derived from sugarcane to which proportionate shares pertained. Moreover, since the direct-consumption sugar produced in 1948 is also used in measuring both past marketings and ability to market in the Government proposal, only 10 percent weight was proposed for the proportionate shares standard (R. 20).

It was pointed out that the court stated in the Roig case that "past marketings" should be measured by recent marketings and indicated that consideration of marketings for more than six years past was not permitted by the act, and that if ability to market is measured by actual performance, the most recent year of such performance should be used. Accordingly, the Government proposal used marketings in the past six years to measure past marketings and the 1948 marketings to measure ability to market. The witness then proposed that since there was no apparent reason for different weights, these two standards had been weighted equally at 45 percent (R. 21–22).

The witness for Roig stated that due to the restrictive allotments established by Puerto Rico Sugar Order 18 (13 F. R. 310) the marketings of refined sugar by Roig in the continental United States in 1948 were not representative of the ability of that company to market such sugar. He further stated that in view of this, any allotment based in part on such marketings would be inequitable and unfair to his company. The witness stated, however, that insofar as the weightings themselves are concerned, the Government proposal would produce fair and equitable results (R. 77, 85, 86).

The witness for Western testified that although his company usually refined all the raw sugar produced by its affiliate, Central Igualdad, during the year 1948 Western refined some 10,000 tons less than Igualdad's outturn because of Order 18 (R. 101). The witness further testified that he did not regard the actual marketings of refined sugar by Western or Roig during 1948 as representative of their ability to market on the mainland, but that the weightings proposed by the Government witness were equitable (R. 103–106). Witnesses for Roig and Western then submitted joint proposals for 1949 allotments (Ex. 11, 12). In one

proposal (1) proportionate shares would be measured by the amount of refined sugar produced by the allottee from sugarcane processed by it or by an affiliated raw sugar mill; (2) an allotment order would be presumed to have been in effect in 1948 which the witnesses considered to be in keeping with the court decision subsequently rendered and, for purposes of measuring past marketings and ability to market, 1948 marketings would be assumed to have been equal to the allotments calculated under such order; and (3) the Government proposal would be followed in other details (R. 119, 120, Exs. 10, 11).

The other proposal differed from the first in that (1) 1947 processings would be used to measure proportionate shares; (2) average marketings for the years 1943–47, inclusive, would be used to measure past marketings; and (3) 1947 marketings would be used to measure ability to market (R. 121, 122, Ex. 12).

The witness for South Porto Rico Sugar Company proposed that proportionate shares be given a weight of at least 20 percent and that the other two standards be weighted equally (R. 124).

The witness for Porto Rican American submitted an allotment proposal wherein (1) the proportionate shares standard would be measured by the quantity of refined sugar marketed in the continental United States in 1948; (2) the ability standard would be measured by either the 1948 marketings of direct-consumption sugar in the continental United States or the highest marketings of such sugar in any year since 1934; and (3) the past marketings standard would be measured by the average marketings of direct-consumption sugar in the continental United States for the years 1938, 1939, 1940, 1941, 1947, and 1948. The witness then proposed that these standards so measured be weighted in the manner proposed by the Government witness.

Basis of allotment. Section 205 (a) of the act reads in pertinent part as follows:

> * * * Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; and the ability of such person to market or import that portion of such quota or proration thereof allotted to him. * * *

In previous allotments of the direct-consumption portion of the Puerto Rican sugar quota it was determined that the proportionate shares standard was not applicable and its use was not considered mandatory (Puerto Rico Sugar Orders No. 13 and 18, R. 19, 20). In the Roig case the court stated that the act required that this standard as well as the other two standards be given effect in making any allotment. The court also held that the ability to be measured is current ability and if performance is to be the measure it must be current performance. Further, with respect to the past marketings standard the court said that term plainly includes marketings within the last half-dozen years or at least the more recent of them and that it is doubtful whether the term includes anything else. Accordingly, all three standards are used as a basis for this order. In order to provide a fair, efficient, and equitable distribution of that portion of the quota to be allotted, the proportionate shares standard is given a weighting of 10 percent and the other two standards are given equal weightings of 45 percent.

The proportionate shares standard has heretofore been interpreted to relate to the initial processings of sugar from sugarcane. The three largest refiners in Puerto Rico had no such processings and it was determined that this standard should be given no weight in the establishment of previous allotments. In the Roig case the court stated that this construction of the act is not the only possible construction. Therefore, in this order this standard has been measured by the quantity of refined sugar produced by each refiner during the twelve month period ended October 31, 1948, from sugarcane or raw sugar derived from sugarcane to which proportionate shares pertained.

The best and most practical measure of ability is the actual performance as reflected in shipments of direct-consumption sugar to the continental United States. The court has indicated that where actual performance is used only current performance may be considered and that such performance should be performance in the immediately preceding year. Consequently, ability to market has been measured by the marketings of direct-consumption sugar in the continental United States during the calendar year 1948.

For reasons stated in Puerto Rico Sugar Order No. 18, the years 1942–47, inclusive, were not considered representative of past marketings of the Puerto Rican refiners and, accordingly, the marketings during those years were not used in the establishment of 1948 allotments. The court has construed the act as requiring the use of recent marketings for a period not exceeding six years, indicating that a shorter recent period would be permissible. In view of this decision the use of the average marketings for the past six years is deemed to be the best available measure of past marketings.

During the calendar year 1948, a total of 922 short tons of Puerto Rican raw sugar was marketed for direct-consumption in the continental United States. It is not considered practicable to allot this small quantity to the numerous raw sugar mills. Such an allotment would disrupt customary trade practices and interfere with the efficient distribution of such sugar. Therefore, this quantity has been set aside as a reserve for the marketings of such sugar.

Findings. On the basis of the record of the hearing, I hereby find that:

1. The potential capacity of Puerto Rican refiners to produce direct-consumption sugar during the calendar year 1949 is approximately 450,000 short tons.

2. The amount of direct-consumption sugar which Puerto Rican refiners are equipped to produce in 1949 is more than twice the sum of the quantity of direct-consumption sugar which may be brought into the continental United States during 1949 and the quantity needed for local consumption in Puerto Rico during 1949.

3. The three largest refiners in Puerto Rico do not process raw sugar from sugarcane. Therefore, the quantity of raw sugar processed from sugarcane to which proportionate shares pertained does not afford a fair and equitable measure of the proportionate shares standard.

4. The best available measure of the proportionate shares standard for each refiner is the total production of refined or turbinado sugar for the twelve-month period ended October 31, 1948, from sugarcane or raw sugar produced from sugarcane to which proportionate shares pertained. Such production data are shown in column 1 of the table below.

5. The use of plant capacity does not afford a fair and equitable measure of the ability of Puerto Rican refiners to market direct-consumption sugar in the continental United States.

6. The best available measure of the past marketings standard for each refiner is the average marketings of direct-consumption sugar in the continental United States during the years 1943–48, inclusive. Such marketings are shown in column 2 of the table below.

7. The best available measure of the ability standard for each refiner is the quantity of direct-consumption sugar marketed in the continental United States during the calendar year 1948. Such marketings are shown in column 3 of the table below.

8. A small part of the direct-consumption portion of the Puerto Rican sugar quota is normally marketed in the continental United States as raw sugar for direct-consumption. The quantity brought in during 1948 was 922 short tons and a like amount is sufficient for 1949.

REFINED AND TURBINADO SUGAR PRODUCTION AND MARKETINGS

[Short tons]

Refiner	Production 96° basis Nov. 1, 1947–Oct. 31, 1948	Marketings in continental United States raw value	
		Average 1943–48 incl.	Total 1948
	(1)	(2)	(3)
Arturo Lluberas, Estate of, y Sobrinos (San Francisco)	902	641	770
Central Aguirre Sugar Co., a trust	2,381	5,800	2,428
Central Roig Refining Co	44,348	19,680	20,187
Porto Rican American Refinery, Inc	91,505	61,842	81,937
South Porto Rico Sugar Co. (Guanica)	15,539	718	0
Western Sugar Refining Co	29,904	21,833	16,189
Total	184,579	110,514	121,511

Conclusions. On the basis of the foregoing and after the consideration of the briefs submitted by interested persons following the hearing, I hereby determine

and conclude that (1) the allotment of the direct-consumption portion of the 1949 sugar quota for Puerto Rico is necessary to prevent disorderly marketing of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States; (2) in order to make a fair, efficient, and equitable distribution of the direct-consumption portion of such quota, as required by section 205 (a) of the act, allotments should be made by giving a weighting of 10 percent to the proportionate shares standard, measured by each refiner's total production of direct-consumption sugar for the twelve-month period ended October 31, 1948, by giving a weighting of 45 percent to past marketings, measured by the annual average of such marketings by each refiner during the period 1943–48, inclusive, and by giving a weighting of 45 percent to ability to market, measured by the marketings by each refiner of direct-consumption sugar in the continental United States during the calendar year 1948; and (3) an unallotted reserve of 922 short tons of sugar, raw value, should be set aside for persons who market raw sugar in the continental United States for direct-consumption.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered:

§ 814.2 *Allotment of the direct-consumption portion of 1949 sugar quota for Puerto Rico*—(a) *Allotments.* The direct-consumption portion of the 1949 sugar quota for Puerto Rico (126,033 short tons, raw value) is hereby allotted as follows:

Refiner	Direct-consumption allotment (short tons, raw value)
Arturo Lluberas, Estate of, y Sobrinos (San Francisco)	744
Central Aguirre Sugar Co., a trust	4,241
Central Roig Refining Co	22,386
Porto Rican American Refinery, Inc	75,670
South Porto Rico Sugar Co. (Guanica)	1,419
Western Sugar Refining Co	20,651
Total	125,111
Unallotted reserve for marketing of raw sugar for direct-consumption	922
	126,033

(b) *Restrictions on shipment.* Each allottee named in paragraph (a) of this section is hereby prohibited from bringing into the continental United States, for consumption therein, during the calendar year 1949 any direct-consumption sugar from Puerto Rico (except such amount of raw sugar as may be marketed within the unallotted reserve) in excess of the allotment therefor established in paragraph (a) of this section. (Sec. 205 (a), 61 Stat. 926; 7 U. S. C. 1115)

Done at Washington, D. C., this 31st day of March 1949. Witness my hand and seal of the Department of Agriculture.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-2504; Filed, Apr. 4, 1949; 8:48 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of the Housing Expediter

[Controlled Housing Rent Reg.,[1] Amdt. 76]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CONTROLLED HOUSING RENT REGULATION

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respect:

Schedule B is amended by incorporating Item 45 as follows:

45. Provisions relating to Marshall County, Iowa, a portion of the Ames-Marshalltown Defense-Rental Area, State of Iowa.

Increase in maximum rents based upon the recommendation of the Local Advisory Board. Pursuant to the provisions of, and subject to the limitations contained in, the Housing and Rent Act of 1947, as amended, an increase of 10 percent is hereby authorized, effective April 5, 1949, in the maximum rents of those housing accommodations in Marshall County, Iowa, a portion of the Ames-Marshalltown Defense-Rental Area, State of Iowa, for which (a) the maximum rent was first determined under section 4 (a) or 4 (b) of the Rent Regulation for Housing issued pursuant to the Emergency Price Control Act of 1942, as amended, or (b) the maximum rent was fixed by an order entered under the applicable rent regulation fixing the maximum rent on the basis of the rent generally prevailing in the defense-rental area for comparable housing accommodations on July 1, 1945: *Provided, however,* That where any adjustment was heretofore ordered on or after August 22, 1947 under § 825.5 (a) (12) or 825.5 (a) (16) the amount of such adjustment shall be excluded in determining the increased maximum rent.

In applying §§ 825.1 to 825.12 to housing accommodations in said Marshall County, the term "rent generally prevailing for comparable housing accommodations on the maximum rent date" shall mean the rent generally prevailing for comparable housing accommodations on July 1, 1945, plus 10 percent.

All provisions of §§ 825.1 to 825.12 insofar as they are applicable to said Marshall County are hereby amended to the extent necessary to carry these provisions into effect.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, by 62 Stat. 94 and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204 (e), 61 Stat. 197, as amended by 62 Stat. 37, by 62 Stat. 94 and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (e))

This amendment shall become effective April 5, 1949.

Issued this 31st day of March 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2514; Filed, Apr. 4, 1949; 8:50 a. m.]

[1] 13 F. R. 5706, 5788, 5877, 5937, 6246, 6283, 6411, 6556, 6881, 6910, 7299, 7671, 7801, 7862, 8217, 8327, 8386; 14 F. R. 17, 93, 143, 271, 337, 456, 627, 632, 695, 856, 918, 979, 1005, 1083, 1345.

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg.,[1] Amdt. 72]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

RENT REGULATION FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is amended in the following respect:

Schedule B is amended by incorporating Item 46 as follows:

46. Provisions relating to Marshall County, Iowa, a portion of the Ames-Marshalltown Defense-Rental Area, State of Iowa.

Increase in maximum rents based upon the recommendation of the Local Advisory Board. Pursuant to the provisions of, and subject to the limitations contained in, the Housing and Rent Act of 1947, as amended, an increase of 10 percent is hereby authorized effective April 5, 1949, in the maximum rents of those housing accommodations in Marshall County, Iowa, a portion of the Ames-Marshalltown Defense-Rental Area, State of Iowa, for which (a) the maximum rent was first determined under section 4 (a) or 4 (b) of the Rent Regulation for Housing issued pursuant to the Emergency Price Control Act of 1942, as amended, or (b) the maximum rent was fixed by an order entered under the applicable rent regulation fixing the maximum rent on the basis of the rent generally prevailing in the defense-rental area for comparable housing accommodations on July 1, 1945: *Provided however,* That where any adjustment was heretofore ordered on or after August 22, 1947 under § 825.85 (a) (9) the amount of such adjustment shall be excluded in determining the increased maximum rent.

In applying §§ 825.81 to 825.92 to housing accommodations in said Marshall County, the term "rent generally prevailing for comparable housing accommodations on the maximum rent date" shall mean the rent generally prevailing for comparable housing accommodations on July 1, 1945, plus 10 percent.

All provisions of §§ 825.81 to 825.92 insofar as they are applicable to said Marshall County are hereby amended to the extent necessary to carry these provisions into effect.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, by 62 Stat. 94 and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204 (e), 61 Stat. 197, as amended by 62 Stat. 37, by 62 Stat. 94 and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (e))

This amendment shall become effective April 5, 1949.

Issued this 31st day of March 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2515; Filed, Apr. 4, 1949; 8:50 a. m.]

[1] 13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411, 6556, 6882, 6911, 7299, 7672, 7801, 7862, 8218, 8328, 8388; 14 F. R. 18, 272, 337, 457, 627, 682, 695, 857, 918, 978, 1083, 1345.

[Controlled Housing Rent Reg.,[1] Amdt. 77]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CONTROLLED HOUSING RENT REGULATION

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respects:

1. The definition of "hotel" contained in § 825.1 is deleted.

2. In § 825.1 the definition of "date determining the maximum rent" is deleted.

3. Section 825.1 (b) (2) is amended to read as follows:

§ 825.1 *Definitions and scope of §§ 825.1 to 825.12.* * * *

(b) *Decontrolled and exempted housing to which §§ 825.1 to 825.12 do not apply.* * * *

(2) *Decontrolled housing to which §§ 825.1 to 825.12 do not apply.* Sections 825.1 to 825.12 do not apply to the following:

(i) *Accommodations in hotels.* (*a*) In cities of less than 2,500,000 population according to the 1940 decennial census, those housing accommodations in any hotel which on June 30, 1947, were occupied by persons to whom were provided customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy services (not necessarily all the types of services named need be provided in all cases as long as enough are provided to constitute customary hotel services usually supplied in establishments commonly known as hotels in the community where they are located). For purposes of this subdivision (*a*), the term "hotel" means any establishment which is commonly known as a hotel in the community in which it is located and which provides customary hotel services.

(*b*) In cities of 2,500,000 population or more according to the 1940 decennial census, (*1*) those housing accommodations which are located in hotels in which on March 1, 1949, 75 percent or more of the occupied housing accommodations were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more, or (2) those accommodations which are not located in hotels described in (*1*) but which on March 1, 1949, were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more. For purposes of this subdivision (*b*), the term "hotel" means any establishment which on June 30, 1947, was commonly known as a hotel in the community in which it is located and in which at least an appreciable number of its occupants were provided with customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy service.

(ii) *Motor courts.* Housing accommodations in establishments which were motor courts on June 30, 1947.

(iii) *Trailer or trailer space.* Housing accommodations located in trailers and ground space rented for trailers, which on April 1, 1949, were used exclusively for transient occupancy, i. e., rented on a daily basis to tenants who had not continuously resided therein on and since March 1, 1949.

(iv) *Tourist homes.* Housing accommodations in any tourist home serving transient guests exclusively on June 30, 1947.

(v) *Accommodations created by new construction or change from non-housing use.* (*a*) Housing accommodations the construction of which was completed, or which were created by a change from a non-housing to a housing use, on or after February 1, 1947: *Provided, however,* That maximum rents established under the Veterans' Emergency Housing Act for priority constructed housing accommodations completed on or after February 1, 1947, shall continue in full force and effect, if such accommodations are being rented to veterans of World War II or their immediate families, who, on June 30, 1947, either (*1*) occupied such housing accommodations, or (*2*) had a right to occupy such housing accommodations at any time on or after July 1, 1947, under any agreement whether written or oral.

(*b*) Housing accommodations the construction of which was completed between February 1, 1945 and January 31, 1947, both dates inclusive, and which between the date of completion and June 30, 1947, both dates inclusive, at no time were rented as housing accommodations (other than to members of the immediate family of the landlord).

For purposes of this subdivision (v):

The time at which construction of housing accommodations shall be deemed to be "completed" shall be the date on which the dwelling is first suitable for occupancy and all utility and service connections have been made, except for the installation of such items and the completion of such decoration work, as, in accordance with the custom of the community, are left for installation by, or to the choice of, the purchaser or the tenant.

(vi) *Additional housing accommodations created by conversion.* (*a*) Additional housing accommodations created on or after February 1, 1947, by a conversion (i. e., a structural change in a residential unit or units involving substantial alterations and remodeling) which was created on or before March 31, 1949, but subject to the proviso clause set forth in paragraph (b) (2) (v) (*a*).

(*b*) Housing accommodations as to which a decontrol order has been entered by the Housing Expediter based on a conversion created on or after April 1, 1949, but subject to the proviso clause set forth in paragraph (b) (2) (v) (*a*). On petition by the owner such a decontrol order shall be entered by the Housing Expediter, if the following facts are established:

(*1*) There has been a structural change in a residential unit or units involving substantial alterations or remodeling; and

(2) Such change has resulted in additional, self-contained family units. For purposes of this paragraph (b) (2) (vi):

The term "self-contained family unit" means a housing accommodation with private access, containing one or more rooms in addition to a kitchen (including kitchenette or pullman kitchen) and a private bathroom: *Provided, however,* That where a housing accommodation meets all these conditions except that it has no private bathroom or no bathroom facilities other than toilet, the Area Rent Director may waive such requirement if he finds that the accommodation is of the type recognized as a self-contained family unit in the neighborhood in which it is located.

(vii) *Non-housekeeping furnished accommodations.* Non-housekeeping furnished housing accommodations, located within a single dwelling unit not used as a rooming or boarding house, but only if no more than two paying tenants, not members of the landlord's immediate family live in such dwelling unit, and the remaining portion of such dwelling unit is occupied by the landlord or his immediate family. (See definition of rooming house in this section.)

4. Section 825.3 is amended to read as follows:

§ 825.3 *Minimum space, services, furniture, furnishings, and equipment.* Every landlord shall, as a minimum, provide with housing accommodations the same living space and the same essential services, furniture, furnishings and equipment as were provided on the date determining the maximum rent, and as to other services, furniture, furnishings and equipment not substantially less than those provided on the date determining the maximum rent, plus or minus any increases or decreases made pursuant to § 825.5 (a) (3) or § 825.5 (b) or the comparable provisions of the rent regulations issued pursuant to the Emergency Price Control Act of 1942, as amended.

5. Sections 825.4 (a) and 825.4 (b) are amended to read as follows:

§ 825.4 *Maximum rents*—(a) *Maximum rents in effect on June 30, 1947.* Except as otherwise provided in this section, the maximum rent for any housing accommodations subject to §§ 825.1 to 825.12, shall be the maximum rent which was in effect on June 30, 1947, as established under the Emergency Price Control Act of 1942, as amended, and the applicable rent regulation issued thereunder, plus or minus adjustments under § 825.5.

(b) *Maximum rents in statutory lease cases.* (1) For housing accommodations concerning which a statutory lease is in effect the maximum rent, until such lease is terminated or expires, shall be the rent set forth in such lease.

(2) For housing accommodations concerning which a statutory lease has heretofore terminated or expired or hereafter terminates or expires, the maximum rent shall be the rent set forth in

[1] 13 F. R. 5706, 5788, 5877, 5937, 6246, 6283, 6411, 6556, 6881, 6910, 7299, 7671, 7801, 7862, 8217, 8327, 8386; 14 F. R. 17, 93, 143, 271, 337, 456, 627, 632, 695, 856, 918, 979, 1005, 1083, 1345.

such lease, plus or minus adjustments under § 825.5: *Provided, however,* That if such housing accommodations are in a defense-rental area in which a general increase in maximum rents has been or is hereafter granted, the maximum rent shall be such lease rent plus or minus adjustments under § 825.5, or the maximum rent in the absence of a lease, whichever is higher.

Reporting requirements. A landlord shall file a report in the Area Rent Office, on a form provided by the Expediter, of any termination of a statutory lease prior to the expiration date of the lease, unless such report was filed prior to April 1, 1949. Such report shall be filed within fifteen days after such termination or fifteen days after April 1, 1949, whichever is later.

For purposes of this paragraph (b), the term "statutory lease" means a lease as described in section 204 (b) (2) or 204 (b) (3) of the Housing and Rent Act of 1947, as amended, and § 825.1 (b) (2) (v), as they read prior to April 1, 1949.

6. A new paragraph (f) is added to § 825.4 to read as follows:

(f) *Recontrolled housing accommodations in hotels.* In the case of those controlled housing accommodations in hotels which were not included as controlled housing accommodations on March 31, 1949, the maximum rent shall be the rent in effect for such accommodations on March 1, 1949.

7. A new unnumbered paragraph is added immediately prior to § 825.5 (a) to read as follows:

§ 825.5 *Adjustments and other determinations.* * * *

Any landlord who files a petition under this section for adjustment to increase the maximum rent otherwise allowable shall certify that he is maintaining all services required by this regulation and that he will continue to maintain such services so long as the adjustment in such maximum rent which may be granted continues in effect.

8. Section 825.9 is redesignated as § 825.9 (a).

9. Section 825.6 is redesignated as § 825.9 (b), and is amended to read as follows:

§ 825.9 *Enforcement.* * * *

(b) Any person who rents or offers for rent, or acts as a broker or agent for the rental of, any controlled housing accommodations shall, as the Housing Expediter may from time to time require, (1) furnish information under oath or affirmation or otherwise, (2) make and keep records and other documents, (3) make reports, (4) permits inspection and copying of records and other documents and (5) permit inspection of controlled housing accommodations.

10. A new § 825.6 is added to read as follows:

§ 825.6 *Removal of tenant*—(a) *Restrictions on removal of tenant.* So long as the tenant continues to pay the rent to which the landlord is entitled, no tenant shall be removed from any housing accommodations by action to evict or to recover possession, by exclusion from possession, or otherwise, nor shall any person attempt such removal or exclusion from possession, notwithstanding that such tenant has no lease or that his lease or other rental agreement has expired or otherwise terminated, and regardless of any contract, lease, agreement or obligation heretofore or hereafter entered into which provides for surrender of possession, or for entry of judgment upon the tenant's confession for breach of the covenants thereof, or which otherwise provides contrary hereto, except on one or more of the grounds specified in this paragraph (a), or unless the landlord has obtained a certificate in accordance with paragraph (c) of this section: *Provided, however,* That no provisions of this section shall be construed to authorize the removal of a tenant unless such removal is authorized under local law.

(1) *Violating substantial obligation of tenancy.* The tenant is violating a substantial obligation of his tenancy, other than an obligation to pay rent or an obligation to surrender possession of the housing accommodations, and has continued or failed to cure such violation after a written notice by the landlord that the violation cease.

(2) *Nuisance or illegal or immoral use.* Under the local law, the tenant (i) is committing or permitting a nuisance in the housing accommodations and such nuisance continues after written notice to the tenant that the same shall cease or (ii) is using or permitting a use of such housing accommodations for an immoral or illegal purpose.

(3) *Tenant's refusal of access to landlord.* The tenant has unreasonably refused the landlord access to the housing accommodations for the purpose of inspection or of showing the accommodations to a prospective purchaser, mortgagee, or prospective mortgagee, or other person having a legitimate interest therein: *Provided, however,* That such refusal shall not be ground for removal or eviction if such inspection or showing of the accommodations is contrary to the provisions of the tenant's lease or other rental agreement.

(4) *Accommodations entirely sublet.* The tenant's lease or other rental agreement has expired or otherwise terminated, and at the time of termination the occupants of the housing accommodations are subtenants or other persons who occupied under a rental agreement with the tenant, and no part of the accommodations is used by the tenant as his dwelling.

(5) *Landlord is a state or political subdivision thereof.* The housing accommotions have been acquired by a state or political subdivision thereof for the purpose of making a public improvement and are rented temporarily pending the construction of such improvement.

(6) *Company housing.* The housing accommodations are part of a company housing development in which occupancy has customarily been limited to employees of the landlord, and the tenant is no longer his employee.

(b) *Notice required.* (1) No tenant shall be removed or evicted from housing accommodations by court process or otherwise and no action or proceeding shall be commenced for such purpose upon any of the grounds permitted in paragraph (a) of this section unless and until the landlord shall have given written notice to the Area Rent Office and to the tenant as provided in this paragraph (b) (1).

Every such notice to a tenant to vacate or surrender possession of housing accommodations shall state the ground under this section upon which the landlord relies for removal or eviction of the tenant, the facts necessary to establish the existence of such ground, and the date when the tenant is required to surrender possession. Where the ground for removal or eviction of a tenant is nonpayment of rent such notice shall include a statement of the rent due and the rental period or periods for which such rent is due. A written copy of every notice required by this paragraph (b) (1) shall be filed with the Area Rent Office within 24 hours after such notice is given to the tenant.

Every such notice shall be given to the tenant at least the following period of time prior to the date specified therein for the surrender of possession and to the commencement of any action for removal or eviction:

(*a*) Where the ground specified in the notice for such removal or eviction is nonpayment of rent, not less than three days.

(*b*) Where the notice specifies one or more of the grounds stated in paragraphs (a) (1) and (a) (2) of this section for such removal or eviction, not less than ten days.

(*c*) Where the notice specifies the ground stated in paragraph (a) (3) of this section for such removal or eviction, not less than one month.

(*d*) Where the notice specifies one or more of the grounds stated in paragraphs (a) (4), (a) (5) and (a) (6) of this section for such removal or eviction, not less than two months.

If judgment for possession is sought by virtue of a confession of judgment or by virtue of a warrant of attorney authorizing confession of such judgment against the tenant, the date of commencement of the action as referred to in this section shall be deemed to be the date of the filing in court of the first papers in the proceedings for the entry of such judgment.

(2) At the time of commencing any action to remove or evict a tenant, on any ground stated in paragraph (a) of this section the landlord shall give written notice thereof to the Area Rent Office, stating the title of the case, the number of the case where that is possible, the court in which it is filed, the name and address of the tenant, and the ground under said paragraph on which removal or eviction is sought.

(c) *Eviction certificate; grounds for issuance.* No tenant shall be removed or evicted on grounds other than those stated in paragraph (a) of this section, unless on petition of the landlord the Housing Expediter certifies that the landlord may pursue his remedies in accordance with the requirements of local law. The certificate shall authorize the pursuit of local remedies at the expiration of the waiting period specified in paragraph

(d) of this section. The Expediter shall so certify if he finds that removals or evictions of the character proposed are not inconsistent with the purposes of the act or this regulation and would not be likely to result in the circumvention or evasion thereof. The Expediter shall so find in the following cases:

(1) *Occupancy by owner.* Where the landlord, who is the owner of the housing accommodations, establishes that he seeks in good faith to recover possession thereof for his immediate and personal use and occupancy as housing accommodations, or for the immediate and personal use and occupancy as housing accommodations by a member or members of his immediate family (see definition of "immediate family" at the end of this subparagraph (1)): *Provided, however,* That:

(*a*) Where the housing accomodations are located in a structure or premises which contain more than two housing accommodations and the housing accommodations or structure or premises are owned by two or more persons not constituting a cooperative corporation or association—(husband and wife as owners being considered one owner for this purpose), no certificate shall be issued under this paragraph (c) (1) for occupancy of more than one housing accommodation and then only if none of the co-owners is already in occupancy of any housing accommodation in such structure or premises;

(*b*) In the case of housing accommodations in a structure or premises owned by a cooperative corporation or association, no certificate shall be issued by the Expediter to a purchaser of stock or other evidence of interest in such cooperative, who is entitled by reason of such ownership of stock or other evidence of interest to possession of such housing accommodations by virtue of a proprietary lease or otherwise, unless stock or other evidence of interest in the cooperative has been purchased by persons who are tenants in ocupancy of at least 65 percent of the housing accommodations in the structure or premises and are entitled by reason of such ownership to proprietary leases of housing accommodations in the structure or premises;

(*c*) Where the owner or owners purchased and thereby acquired title to the housing accommodations on or after April 1, 1949, no certificate shall be issued under this paragraph (c) (1) unless such owner or owners made a payment or payments of principal totaling at least 10 percent of the purchase price, but this requirement shall not apply where the purchaser is a veteran of World War II, who, by virtue of his status as such, obtained a loan for use in purchasing such housing accommodations which was guaranteed in whole or in part by the Administrator of Veterans Affairs.

For purposes of this paragraph (c) (1), the term "immediate family" includes only a son, son-in-law, daughter, daughter-in-law, father, father-in-law, mother, mother-in-law, stepchild and adopted child.

(2) *Occupancy by contract-purchaser.* Where it is established that a person has an enforceable contract to purchase the housing accommodations, and that he seeks in good faith to recover possession thereof for his immediate and personal use and occupancy as housing accommodations, or for the immediate and personal use and occupancy as housing accommodations by a member or members of his immediate family (as defined in subparagraph (1) of this paragraph); *Provided, however,* That:

(*a*) Where such purchase contract does not give the contract purchaser the right of immediate possession to the housing accommodations, no certificate shall be issued until after title has been transferred to the contract purchaser; and

(*b*) It is established that such contract purchaser, if title were transferred, would be entitled to a certificate under subparagraph (1) of this paragraph.

(3) *Alterations or remodeling.* Where a landlord establishes that he seeks in good faith to recover possession for the immediate purpose of substantially altering or remodeling the housing accommodations, for continued use as housing accommodations, in a manner which cannot practicably be done with the tenant in possession, or for the immediate purpose of demolishing them, provided that the landlord has obtained such approval for the proposed alterations or remodeling or demolition as may be required by federal, state and local law.

(4) *Landlord is tax-exempt organization.* Where the landlord establishes that it is an organization exempt from taxation under section 101 (6) of the Internal Revenue Code, and that it seeks in good faith to recover possession of the housing accommodations for the immediate and personal use and occupancy as housing accommodations by members of its staff.

(5) *Withdrawal from rental market.* Where the landlord establishes that he seeks in good faith to recover possession of the housing accommodations for the immediate purpose of (*a*) making a permanent conversion to commercial use by substantially altering or remodeling them or (*b*) personally making a permanent use of them for non-housing purposes or (*c*) permanently withdrawing them from both the housing and non-housing rental markets without any intent to sell the housing accommodations.

(d) *Eviction certificates; waiting period.* Certificates issued under paragraph (c) of this section shall authorize the pursuit of local remedies at the expiration of three months from the date of the filing of the petition; *Provided, however,* That:

(1) In cases under paragraph (c) (5) of this section the waiting period shall be six months;

(2) In cases under paragraph (c) (2) (*a*) of this section the waiting period shall extend at least until two months from the date the certificate is issued;

(3) In any case where the Expediter finds that by reason of exceptional circumstances extreme hardship would result to the landlord, he may waive all or part of the waiting period.

(e) *Change of intention.* Any certificate issued under paragraph (c) of this section shall not be used in connection with any action to remove or evict a tenant unless such removal or eviction is sought for the purpose specified in the certificate.

In the event that the landlord's intentions or circumstances so change that the premises, possession of which is sought, will not be used for the purpose specified in the certificate, the certificate shall thereupon be null and void. The landlord shall immediately notify the Area Rent Director in writing and surrender the certificate for cancellation.

(f) *Local law.* No provision of this section shall be construed to prohibit a landlord who has obtained a certificate under paragraph (c) of this section from serving, prior to the expiration of the waiting period specified in said certificate, such notice or notices as may be required by the local law, provided that such notice or notices do not demand surrender of possession until after expiration of said waiting period.

(g) *Exceptions.* The provisions of this section do not apply to:

(1) *Subtenants.* A subtenant or other person who occupies or occupied under a rental agreement with the tenant, where removal or eviction of the subtenant or other such occupant is sought by the landlord of the tenant, unless the rental agreement between the landlord and tenant contemplated the subletting by the tenant of the entire accommodations or substantially all of the individual units therein, or unless under the local law there is a tenancy relationship between the landlord and the subtenant or other such occupant.

(2) *Public housing.* Notwithstanding any other provisions of this section, the United States or any State or local public agency may maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action or proceeding is authorized by the statute or regulations under which such accommodations are administered.

(h) *Pending cases.* (1) In any case where a landlord has given a tenant a written notice, prior to April 1, 1949, in accordance with section 209 (c) of the Housing and Rent Act of 1947, as amended, as it read prior to April 1, 1949, or where no notice was required by that section of said act and a court proceeding for removal or eviction is pending on April 1, 1949, the landlord need not comply with the notice requirements under paragraph (b) of this section provided that the ground for removal or eviction relied upon in such cases is a ground for removal or eviction under paragraph (a) of this section. If in any such case the ground for removal or eviction is not a ground for removal or eviction under paragraph (a) of this section and a certificate is applied for and issued in accordance with paragraph (c) of this section the Housing Expediter may reduce the waiting period, taking into consideration the time elapsed since notice was given.

(2) The provisions of this section shall not apply to any case in which judgment was entered prior to April 1, 1949 by a court of competent jurisdiction for the eviction or removal of a tenant from housing accommodations.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, by 62 Stat. 94 and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d))

This amendment shall become effective April 1, 1949.

Issued this 31st day of March 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2513; Filed, Mar. 31, 1949; 5:13 a. m.]

[Controlled Housing Rent Reg., New York City Defense-Rental Area,[1] Amdt. 12]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CONTROLLED HOUSING RENT REGULATION FOR THE NEW YORK CITY DEFENSE-RENTAL AREA

The Controlled Housing Rent Regulation for the New York City Defense-Rental Area (§§ 825.21 to 825.32) is amended in the following respects:

1. The definition of "hotel" contained in § 825.21 is deleted.

2. In § 825.21 the definition of "date determining the maximum rent" is deleted.

3. Section 825.21 (b) (2) is amended to read as follows:

(2) *Decontrolled housing to which §§ 825.21 to 825.32 do not apply.* Sections 825.21 to 825.32 do not apply to the following:

(i) *Accommodations in hotels.* (*a*) In cities of less than 2,500,000 population according to the 1940 decennial census, those housing accommodations in any hotel which, on June 30, 1947, were occupied by persons to whom were provided customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy services (not necessarily all the types of services named need be provided in all cases as long as enough are provided to constitute customary hotel services usually supplied in establishments commonly known as hotels in the community where they are located). For purposes of this paragraph (b) (2) (i) (*a*), the term "hotel" means any establishment which is commonly known as a hotel in the community in which it is located and which provides customary hotel services.

(*b*) In cities of 2,500,000 population or more according to the 1940 decennial census, (*1*) those housing accommodations which are located in hotels in which on March 1, 1949, 75 percent or more of the occupied housing accommodations were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more, or (2) those accommodations which are not located in hotels described in subdivision (*1*) but which on March 1, 1949, were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more. For purposes of this paragraph (b) (2) (i) (*b*), the term "hotel" means any establishment which on June 30, 1947, was commonly known as a hotel in the community in which it is located and in which at least an appreciable number of its occupants were provided with customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy service.

(ii) *Motor courts.* Housing accommodations in establishments which were motor courts on June 30, 1947.

(iii) *Trailer or trailer space.* Housing accommodations located in trailers and ground space rented for trailers, which on April 1, 1949 were used exclusively for transient occupancy, i. e., rented on a daily basis to tenants who had not continuously resided therein on and since March 1, 1949.

(iv) *Tourist homes.* Housing accommodations in any tourist home serving transient guests exclusively on June 30, 1947.

(v) *Accommodations created by new construction or change from nonhousing use.* (*a*) Housing accommodations the construction of which was completed, or which were created by a change from a nonhousing to a housing use, on or after February 1, 1947: *Provided, however,* That maximum rents established under the Veterans' Emergency Housing Act for priority constructed housing accommodations completed on or after February 1, 1947, shall continue in full force and effect, if such accommodations are being rented to veterans of World War II or their immediate families, who, on June 30, 1947, either (*1*) occupied such housing accommodations, or (2) had a right to occupy such housing accommodations at any time on or after July 1, 1947, under any agreement whether written or oral.

(*b*) Housing accommodations the construction of which was completed between February 1, 1945 and January 31, 1947, both dates inclusive, and which between the date of completion and June 30, 1947, both dates inclusive, at no time were rented as housing accommodations (other than to members of the immediate family of the landlord).

For purposes of this § 825.21 (b) (2) (v):

The time at which construction of housing accommodations shall be deemed to be "completed" shall be the date on which the dwelling is first suitable for occupancy and all utility and service connections have been made, except for the installation of such items and the completion of such decoration work, as, in accordance with the custom of the community, are left for installation by, or to the choice of, the purchaser or the tenant.

(vi) *Additional housing accommodations created by conversion.* (*a*) Additional housing accommodations created on or after February 1, 1947 by a conversion (i. e., a structural change in a residential unit or units involving substantial alterations and remodeling) which was created on or before March 31, 1949, but subject to the proviso clause set forth in § 825.21 (b) (2) (v) (*a*).

(*b*) Housing accommodations as to which a decontrol order has been entered by the Housing Expediter based on a conversion created on or after April 1, 1949, but subject to the proviso clause set forth in § 825.21 (b) (2) (v) (*a*). On petition by the owner such a decontrol order shall be entered by the Housing Expediter, if the following facts are established:

(*1*) There has been a structural change in a residential unit or units involving substantial alterations or remodeling; and

(2) Such change has resulted in additional, self-contained family units. For purposes of this § 825.21 (b) (2) (vi):

The term "self-contained family unit" means a housing accommodation with private access, containing one or more rooms in addition to a kitchen (including kitchenette or pullman kitchen) and a private bathroom: *Provided, however,* That where a housing accommodation meets all these conditions except that it has no private bathroom or no bathroom facilities other than toilet, the Area Rent Director may waive such requirement if he finds that the accommodation is of the type recognized as a self-contained family unit in the neighborhood in which it is located.

(vii) *Non-housekeeping furnished accommodations.* Non-housekeeping furnished housing accommodations, located within a single dwelling unit not used as a rooming or boarding house, but only if no more than two paying tenants, not members of the landlord's immediate family live in such dwelling unit, and the remaining portion of such dwelling unit is occupied by the landlord or his immediate family. (See definition of rooming house in this section.)

4. Section 825.23 is amended to read as follows:

Every landlord shall, as a minimum, provide with housing accommodations the same living space and the same essential services, furniture, furnishings and equipment as were provided on the date determining the maximum rent, and as to other services, furniture, furnishings and equipment not substantially less than those provided on the date determining the maximum rent, plus or minus any increases or decreases made pursuant to § 825.25 (a) (3) or 825.25 (b) or the comparable provisions of the rent regulations issued pursuant to the Emergency Price Control Act of 1942, as amended.

5. Sections 825.24 (a) and 825.24 (b) are amended to read as follows:

§ 825.24 *Maximum rents*—(a) *Maximum rents in effect on June 30, 1947.* Except as otherwise provided in this section, the maximum rent for any housing accommodations subject to §§ 825.21 to 825.32, shall be the maximum rent which was in effect on June 30, 1947, as established under the Emergency Price Control Act of 1942, as amended, and the applicable rent regulation issued thereunder, plus or minus adjustments under § 825.25.

[1] 13 F. R. 5727, 8388; 14 F. R. 18, 93, 144.

(b) *Maximum rents in statutory lease cases.* (1) For housing accommodations concerning which a statutory lease is in effect the maximum rent, until such lease is terminated or expires, shall be the rent set forth in such lease.

(2) For housing accommodations concerning which a statutory lease has heretofore terminated or expired or hereafter terminates or expires, the maximum rent shall be the rent set forth in such lease, plus or minus adjustments under § 825.25: *Provided, however,* That if such housing accommodations are in a defense-rental area in which a general increase in maximum rents has been or is hereafter granted, the maximum rent shall be such lease rent plus or minus adjustments under § 825.25, or the maximum rent in the absence of a lease, whichever is higher.

Reporting requirements. A landlord shall file a report in the Area Rent Office, on a form provided by the Expediter, of any termination of a statutory lease prior to the expiration date of the lease, unless such report was filed prior to April 1, 1949. Such report shall be filed within fifteen days after such termination or fifteen days after April 1, 1949, whichever is later.

For purposes of this paragraph (b), the term "statutory lease" means a lease as described in sections 204 (b) (2) or 204 (b) (3) of the Housing and Rent Act of 1947, as amended, and § 825.21 (b) (2) (v), as they read prior to April 1, 1949.

6. A new paragraph (f) is added to § 825.24 to read as follows:

(f) *Recontrolled housing accommodations in hotels.* In the case of those controlled housing accommodations in hotels which were not included as controlled housing accommodations on March 31, 1949, the maximum rent shall be the rent in effect for such accommodations on March 1, 1949.

7. A new unnumbered paragraph is added immediately prior to § 825.25 (a) to read as follows:

Any landlord who files a petition under this section for adjustment to increase the maximum rent otherwise allowable shall certify that he is maintaining all services required by this regulation and that he will continue to maintain such services so long as the adjustment in such maximum rent which may be granted continues in effect.

8. Section 825.29 is redesignated as § 825.29 (a).

9. Section 825.26 is redesignated as § 825.29 (b), and is amended to read as follows:

(b) Any person who rents or offers for rent, or acts as a broker, or agent for the rental of any controlled housing accommodations shall, as the Housing Expediter may from time to time require, (1) furnish information under oath or affirmation or otherwise, (2) make and keep records and other documents, (3) make reports, (4) permit inspection and copying of records and other documents and (5) permit inspection of controlled housing accommodations.

10. A new § 825.26 is added to read as follows:

§ 825.26 *Removal of tenant*—(a) *Restrictions on removal of tenant.* So long as the tenant continues to pay the rent to which the landlord is entitled, no tenant shall be removed from any housing accommodations by action to evict or to recover possession, by exclusion from possession, or otherwise, nor shall any person attempt such removal or exclusion from possession, nothwithstanding that such tenant has no lease or that his lease or other rental agreement has expired or otherwise terminated, and regardless of any contract, lease, agreement or obligation heretofore or hereafter entered into which provides for surrender of possession, or for entry of judgment upon the tenant's confession for breach of the covenants thereof, or which otherwise provides contrary hereto, except on one or more of the grounds specified in this paragraph (a), or unless the landlord has obtained a certificate in accordance with paragraph (c) of this section; *Provided, however,* That no provision of this section shall be construed to authorize the removal of a tenant unless such removal is authorized under local law.

(1) *Violating substantial obligation of tenancy.* The tenant is violating a substantial obligation of his tenancy, other than an obligation to pay rent or an obligation to surrender possession of the housing accommodations, and has continued or failed to cure such violation after a written notice by the landlord that the violation cease.

(2) *Nuisance or illegal or immoral use.* Under the local law, the tenant (i) is committing or permitting a nuisance in the housing accommodations and such nuisance continues after written notice to the tenant that the same shall cease or (ii) is using or permitting a use of such housing accommodations for an immoral or illegal purpose.

(3) *Tenant's refusal of access to landlord.* The tenant has unreasonably refused the landlord access to the housing accommodations for the purpose of inspection or of showing the accommodations to a prospective purchaser, mortgagee, or prospective mortgagee, or other person having a legitimate interest therein: *Provided, however,* That such refusal shall not be ground for removal or eviction if such inspection or showing of the accommodations is contrary to the provisions of the tenant's lease or other rental agreement.

(4) *Accommodations entirely sublet.* The tenant's lease or other rental agreement has expired or otherwise terminated, and at the time of termination the occupants of the housing accommodations are subtenants or other persons who occupied under a rental agreement with the tenant, and no part of the accommodations is used by the tenant as his dwelling.

(5) *Landlord is a state or political subdivision thereof.* The housing accommodations have been acquired by a state or political subdivision thereof for the purpose of making a public improvement and are rented temporarily pending the construction of such improvement.

(6) *Company housing.* The housing accommodations are part of a company housing development in which occupancy has customarily been limited to employees of the landlord, and the tenant is no longer his employee.

(b) *Notices required.* (1) No tenant shall be removed or evicted from housing accommodations by court process or otherwise and no action or proceeding shall be commenced for such purpose upon any of the grounds permitted in paragraph (a) of this section unless and until the landlord shall have given written notice to the Area Rent Office and to the tenant as provided in this paragraph (b) (1).

Every such notice to a tenant to vacate or surrender possession of housing accommodations shall state the ground under this section upon which the landlord relies for removal or eviction of the tenant, the facts necessary to establish the existence of such ground, and the date when the tenant is required to surrender possession. Where the ground for removal or eviction of a tenant is nonpayment of rent such notice shall include a statement of the rent due and the rental period or periods for which such rent is due. A written copy of every notice required by this paragraph (b) (1) shall be filed with the Area Rent Office within 24 hours after such notice is given to the tenant.

Every such notice shall be given to the tenant at least the following period of time prior to the date specified therein for the surrender of possession and to the commencement of any action for removal or eviction:

(i) Where the ground specified in the notice for such removal or eviction is nonpayment of rent, not less than three days.

(ii) Where the notice specifies one or more of the grounds stated in paragraphs (a) (1) and (a) (2) of this section for such removal or eviction, not less than ten days.

(iii) Where the notice specifies the ground stated in paragraph (a) (3) of this section for such removal or eviction, not less than one month.

(iv) Where the notice specifies one or more of the grounds stated in paragraphs (a) (4), (a) (5) and (a) (6) of this section for such removal or eviction, not less than two months.

If judgment for possession is sought by virtue of a confession of judgment or by virtue of a warrant of attorney authorizing confession of such judgment against the tenant, the date of commencement of the action as referred to in this section shall be deemed to be the date of the filing in court of the first papers in the proceedings for the entry of such judgment.

(2) At the time of commencing any action to remove or evict a tenant, on any ground stated in paragraph (a) of this section the landlord shall give written notice thereof to the Area Rent Office, stating the title of the case, the number of the case where that is possible, the court in which it is filed, the name and address of the tenant, and the ground under said subsection on which removal or eviction is sought.

(c) *Eviction certificate; grounds for issuance.* No tenant shall be removed or evicted on grounds other than those stated in paragraph (a) of this section, unless on petition of the landlord the

Housing Expediter certifies that the landlord may pursue his remedies in accordance with the requirements of local law. The certificate shall authorize the pursuit of local remedies at the expiration of the waiting period specified in paragraph (d) of this section. The Expediter shall so certify if he finds that removals or evictions of the character proposed are not inconsistent with the purposes of the act or this regulation and would not be likely to result in the circumvention or evasion thereof. The Expediter shall so find in the following cases:

(1) *Occupancy by owner.* Where the landlord, who is the owner of the housing accommodations, establishes that he seeks in good faith to recover possession thereof for his immediate and personal use and occupancy as housing accommodations, or for the immediate and personal use and occupancy as housing accommodations by a member or members of his immediate family (see definition of "immediate family" at the end of this subparagraph (1)): *Provided, however,* That:

(i) Where the housing accommodations are located in a structure or premises which contain more than two housing accommodations and the housing accommodations or structure or premises are owned by two or more persons not constituting a cooperative corporation or association (husband and wife as owners being considered one owner for this purpose), no certificate shall be issued under this paragraph (c) (1) for occupancy of more than one housing accommodation and then only if none of the co-owners is already in occupancy of any housing accommodation in such structure or premises;

(ii) In the case of housing accommodations in a structure or premises owned by a cooperative corporation or association, no certificate shall be issued by the Expediter to a purchaser of stock or other evidence of interest in such cooperative, who is entitled by reason of such ownership of stock or other evidence of interest to possession of such housing accommodations by virtue of a proprietary lease or otherwise, unless stock or other evidence of interest in the cooperative has been purchased by persons who are tenants in occupancy of at least 65 percent of the housing accommodations in the structure or premises and are entitled by reason of such ownership to proprietary leases of housing accommodations in the structure or premises;

(iii) Where the owner or owners purchased and thereby acquired title to the housing accommodations on or after April 1, 1949, no certificate shall be issued under this paragraph (c) (1) unless such owner or owners made a payment or payments of principal totaling at least 10 percent of the purchase price, but this requirement shall not apply where the purchaser is a veteran of World War II, who, by virtue of his status as such, obtained a loan for use in purchasing such housing accommodations which was guaranteed in whole or in part by the Administrator of Veterans Affairs.

For purposes of this paragraph (c) (1), the term "immediate family" includes only a son, son-in-law, daughter, daughter-in-law, father, father-in-law, mother, mother-in-law, stepchild and adopted child.

(2) *Occupancy by contract-purchaser.* Where it is established that a person has an enforceable contract to purchase the housing accommodations, and that he seeks in good faith to recover possession thereof for his immediate and personal use and occupancy as housing accommodations, or for the immediate and personal use and occupancy as housing accommodations by a member or members of his immediate family (as defined in subparagraph (1) of this paragraph): *Provided, however,* That:

(i) Where such purchase contract does not give the contract purchaser the right of immediate possession to the housing accommodations, no certificate shall be issued until after title has been transferred to the contract purchaser; and

(ii) It is established that such contract purchaser, if title were transferred, would be entitled to a certificate under subparagraph (1) of this paragraph.

(3) *Alterations or remodeling.* Where a landlord establishes that he seeks in good faith to recover possession for the immediate purpose of substantially altering or remodeling the housing accommodations, for continued use as housing accommodations, in a manner which cannot practicably be done with the tenant in possession, or for the immediate purpose of demolishing them: *Provided,* That the landlord has obtained such approval for the proposed alterations or remodeling or demolition as may be required by federal, state and local law.

(4) *Landlord is tax-exempt organization.* Where the landlord establishes that it is an organization exempt from taxation under section 101 (6) of the Internal Revenue Code, and that it seeks in good faith to recover possession of the housing accommodations for the immediate and personal use and occupancy as housing accommodations by members of its staff.

(5) *Withdrawal from rental market.* Where the landlord establishes that he seeks in good faith to recover possession of the housing accommodations for the immediate purpose of (i) making a permanent conversion to commercial use by substantially altering or remodeling them or (ii) personally making a permanent use of them for non-housing purposes or (iii) permanently withdrawing them from both the housing and non-housing rental markets without any intent to sell the housing accommodations.

(d) *Eviction certificates; waiting period.* Certificates issued under paragraph (c) of this section shall authorize the pursuit of local remedies at the expiration of three months from the date of the filing of the petition; *Provided, however,* That:

(1) In cases under paragraph (c) (5) of this section the waiting period shall be six months;

(2) In cases under subparagraph (c) (2) (i) of this section the waiting period shall extend at least until two months from the date the certificate is issued;

(3) In any case where the Expediter finds that by reason of exceptional circumstances extreme hardship would result to the landlord, he may waive all or part of the waiting period.

(e) *Change of intention.* Any certificate issued under paragraph (c) of this section shall not be used in connection with any action to remove or evict a tenant unless such removal or eviction is sought for the purpose specified in the certificate.

In the event that the landlord's intentions or circumstances so change that the premises, possession of which is sought, will not be used for the purpose specified in the certificate, the certificate shall thereupon be null and void. The landlord shall immediately notify the Area Rent Director in writing and surrender the certificate for cancellation.

(f) *Local law.* No provision of this section shall be construed to prohibit a landlord who has obtained a certificate under paragraph (c) of this section from serving, prior to the expiration of the waiting period specified in said certificate, such notice or notices as may be required by the local law: *Provided,* That such notice or notices do not demand surrender of possession until after expiration of said waiting period.

(g) *Exceptions.* The provisions of this section do not apply to:

(1) *Subtenants.* A subtenant or other person who occupies or occupied under a rental agreement with the tenant, where removal or eviction of the subtenant or other such occupant is sought by the landlord of the tenant, unless the rental agreement between the landlord and tenant contemplated the subletting by the tenant of the entire accommodations or substantially all of the individual units therein, or unless under the local law there is a tenancy relationship between the landlord and the subtenant or other such occupant.

(2) *Public housing.* Notwithstanding any other provisions of this section, the United States or any State or local public agency may maintain an action or proceeding to recover possession of any housing accommodiations operated by it where such action or proceeding is authorized by the statute or regulations under which such accommodations are administered.

(h) *Pending cases.* (1) In any case where a landlord has given a tenant a written notice, prior to April 1, 1949, in accordance with section 209 (c) of the Housing and Rent Act of 1947, as amended, as it read prior to April 1, 1949, or where no notice was required by that section of said act and a court proceeding for removal or eviction is pending on April 1, 1949, the landlord need not comply with the notice requirements under paragraph (b) of this section: *Provided,* That the ground for removal or eviction relied upon in such cases is a ground for removal or eviction under paragraph (a) of this section. If in any such case the ground for removal or eviction is not a ground for removal or eviction under paragraph (a) of this section and a certificate is applied for and issued in accordance with paragraph (c) of this section the Housing Expediter may reduce the waiting period, taking into consideration the time elapsed since notice was given.

(2) The provisions of this section shall not apply to any case in which judgment was entered prior to April 1, 1949 by a court of competent jurisdiction for the eviction or removal of a tenant from housing accommodations.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, by 62 Stat. 94 and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d))

This amendment shall become effective April 1, 1949.

Issued this 1st day of April 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2540; Filed, Apr. 1, 1949; 3:46 p. m.]

[Controlled Housing Rent Reg., Atlantic County Defense-Rental Area,[1] Amdt. 12]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CONTROLLED HOUSING RENT REGULATION FOR ATLANTIC COUNTY DEFENSE-RENTAL AREA

The Controlled Housing Rent Regulation for Atlantic County Defense-Rental Area (§§ 825.61 to 825.72) is amended in the following respects:

1. The definition of "hotel" contained in § 825.61 is deleted.

2. In § 825.61 the definition of "date determining the maximum rent" is deleted.

3. Section 825.61 (b) (2) is amended to read as follows:

(2) *Decontrolled housing.* Sections 825.61 to 825.72, do not apply to the following:

(i) *Accommodations in hotels.* (*a*) In cities of less than 2,500,000 population according to the 1940 decennial census, those housing accommodations in any hotel which, on June 30, 1947, were occupied by persons to whom were provided customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy services (not necessarily all the types of services named need be provided in all cases as long as enough are provided to constitute customary hotel services usually supplied in establishments commonly known as hotels in the community where they are located). For purposes of this paragraph (b) (2) (i) (*a*), the term "hotel" means any establishment which is commonly known as a hotel in the community in which it is located and which provides customary hotel services.

(*b*) In cities of 2,500,000 population or more according to the 1940 decennial census, (*1*) those housing accommodations which are located in hotels in which on March 1, 1949, 75 percent or more of the occupied housing accommodations were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more, or (2) those accommodations which are not located in hotels described in subdivision (*1*) but which on March 1, 1949, were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more. For purposes of this paragraph (b) (2) (i) (*b*), the term "hotel" means any establishment which on June 30, 1947, was commonly known as a hotel in the community in which it is located and in which at least an appreciable number of its occupants were provided with customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy service.

(ii) *Motor courts.* Housing accommodations in establishments which were motor courts on June 30, 1947.

(iii) *Trailer or trailer space.* Housing accommodations located in trailers and ground space rented for trailers, which on April 1, 1949 were used exclusively for transient occupancy, i. e., rented on a daily basis to tenants who had not continuously resided therein on and since March 1, 1949.

(iv) *Tourist homes.* Housing accommodations in any tourist home serving transient guests exclusively on June 30, 1947.

(v) *Accommodations created by new construction or change from non-housing use.* (*a*) Housing accommodations the construction of which was completed, or which were created by a change from a non-housing to a housing use, on or after February 1, 1947: *Provided, however,* That maximum rents established under the Veterans' Emergency Housing Act for priority constructed housing accommodations completed on or after February 1, 1947, shall continue in full force and effect, if such accommodations are being rented to veterans of World War II or their immediate families, who, on June 30, 1947, either (*1*) occupied such housing accommodations, or (*2*) had a right to occupy such housing accommodations at any time on or after July 1, 1947, under any agreement whether written or oral.

(*b*) Housing accommodations the construction of which was completed between February 1, 1945 and January 31, 1947, both dates inclusive, and which between the date of completion and June 30, 1947, both dates inclusive, at no time were rented as housing accommodations (other than to members of the immediate family of the landlord).

For purposes of this § 825.61 (b) (2) (v):

The time at which construction of housing accommodations shall be deemed to be "completed" shall be the date on which the dwelling is first suitable for occupancy and all utility and service connections have been made, except for the installation of such items and the completion of such decoration work, as, in accordance with the custom of the community, are left for installation by, or to the choice of, the purchaser or the tenant.

(vi) *Additional housing accommodations created by conversion.* (*a*) Additional housing accommodations created on or after February 1, 1947 by a conversion (i. e., a structural change in a residential unit or units involving substantial alterations and remodeling) which was created on or before March 31, 1949, but subject to the proviso clause set forth in § 825.61 (b) (2) (v) (*a*).

(*b*) Housing accommodations as to which a decontrol order has been entered by the Housing Expediter based on a conversion created on or after April 1, 1949, but subject to the proviso clause set forth in § 825.61 (b) (2) (v) (*a*). On petition by the owner such a decontrol order shall be entered by the Housing Expediter, if the following facts are established:

(*1*) There has been a structural change in a residential unit or units involving substantial alterations or remodeling; and

(*2*) Such change has resulted in additional, self-contained family units. For purposes of this § 825.61 (b) (2) (vi):

The term "self-contained family unit" means a housing accommodation with private access, containing one or more rooms in addition to a kitchen (including kitchenette or pullman kitchen (and a private bathroom: *Provided, however,* That where a housing accommodation meets all these conditions except that it has no private bathroom or no bathroom facilities other than toilet, the Area Rent Director may waive such requirement if he finds that the accommodation is of the type recognized as a self-contained family unit in the neighborhood in which it is located.

(vii) *Non-housekeeping furnished accommodations.* Non-housekeeping furnished housing accommodations, located within a single dwelling unit not used as a rooming or boarding house, but only if no more than two paying tenants, not members of the landlord's immediate family live in such dwelling unit and the remaining portion of such dwelling unit is occupied by the landlord or his immediate family. (See definition of rooming house in this section.)

4. Section 825.63 is amended to read as follows:

Every landlord shall, as a minimum, provide with housing accommodations the same living space and the same essential services, furniture, furnishings and equipment as were provided on the date determining the maximum rent, and as to other services, furniture, furnishings and equipment not substantially less than those provided on the date determining the maximum rent, plus or minus any increases or decreases made pursuant to § 825.65 (a) (3) or 825.65 (b) or the comparable provisions of the rent regulations issued pursuant to the Emergency Price Control Act of 1942, as amended.

5. Sections 825.64 (a) and 825.64 (b) are amended to read as follows:

§ 825.64 *Maximum rents*—(a) *Maximum rents in effect on June 30, 1947.* Except as otherwise provided in this section, the maximum rent for any housing accommodations subject to §§ 825.61 to 825.72, shall be the maximum rent which was in effect on June 30, 1947, as established under the Emergency Price Control Act of 1942, as amended, and the applicable rent regulation issued there-

[1] 13 F. R. 5743, 8390; 14 F. R. 19, 93, 145.

under, plus or minus adjustments under § 825.65.

(b) *Maximum rents in statutory lease cases.* (1) For housing accommodations concerning which a statutory lease is in effect the maximum rent, until such lease is terminated or expires, shall be the rent set forth in such lease.

(2) For housing accommodations concerning which a statutory lease has heretofore terminated or expired or hereafter terminates or expires, the maximum rent shall be the rent set forth in such lease, plus or minus adjustments under § 825.65: *Provided, however,* That if such housing accommodations are in a defense-rental area in which a general increase in maximum rents has been or is hereafter granted, the maximum rent shall be such lease rent plus or minus adjustments under § 825.65, or the maximum rent in the absence of a lease, whichever is higher.

Reporting requirements. A landlord shall file a report in the Area Rent Office, on a form provided by the Expediter, of any termination of a statutory lease prior to the expiration date of the lease, unless such report was filed prior to April 1, 1949. Such report shall be filed within fifteen days after such termination or fifteen days after April 1, 1949, whichever is later.

For purposes of this paragraph (b), the term "statutory lease" means a lease as described in section 204 (b) (2) or 204 (b) (3) of the Housing and Rent Act of 1947, as amended, and § 825.61 (b) (2) (v), as they read prior to April 1, 1949.

6. A new paragraph (f) is added to § 825.64 to read as follows:

(f) *Recontrolled housing accommodations in hotels.* In the case of those controlled housing accommodations in hotels which were not included as controlled housing accommodations on March 31, 1949, the maximum rent shall be the rent in effect for such accommodations on March 1, 1949.

7. A new unnumbered paragraph is added immediately prior to § 825.65 (a) to read as follows:

Any landlord who files a petition under this section for adjustment to increase the maximum rent otherwise allowable shall certify that he is maintaining all services required by this regulation and that he will continue to maintain such services so long as the adjustment in such maximum rent which may be granted continues in effect.

8. Section 825.69 is redesignated as § 825.69 (a).

9. Section 825.66 is redesignated as § 825.69 (b), and is amended to read as follows:

(b) Any person who rents or offers for rent, or acts as a broker or agent for the rental of any controlled housing accommodations shall, as the Housing Expediter may from time to time require, (1) furnish information under oath or affirmation or otherwise, (2) make and keep records and other documents, (3) make reports, (4) permit inspection and copying of records and other documents and (5) permit inspection of controlled housing accommodations.

10. A new § 825.66 is added to read as follows:

§ 825.66 *Removal of tenant*—(a) *Restrictions on removal of tenant.* So long as the tenant continues to pay the rent to which the landlord is entitled, no tenant shall be removed from any housing accommodations by action to evict or to recover possession, by exclusion from possession, or otherwise, nor shall any person attempt such removal or exclusion from possession, notwithstanding that such tenant has no lease or that his lease or other rental agreement has expired or otherwise terminated, and regardless of any contract, lease, agreement or obligation heretofore or hereafter entered into which provides for surrender of possession, or for entry of judgment upon the tenant's confession for breach of the covenants thereof, or which otherwise provides contrary hereto, except on one or more of the grounds specified in this paragraph (a), or unless the landlord has obtained a certificate in accordance with paragraph (c) of this section; *Provided, however,* That no provisions of this section shall be construed to authorize the removal of a tenant unless such removal is authorized under local law.

(1) *Violating substantial obligation of tenancy.* The tenant is violating a substantial obligation of his tenancy, other than an obligation to pay rent or an obligation to surrender possession of the housing accommodations, and has continued or failed to cure such violation after a written notice by the landlord that the violation cease.

(2) *Nuisance or illegal or immoral use.* Under the local law, the tenant (i) is committing or permitting a nuisance in the housing accommodations and such nuisance continues after written notice to the tenant that the same shall cease or (ii) is using or permitting a use of such housing accommodations for an immoral or illegal purpose.

(3) *Tenant's refusal of access to landlord.* The tenant has unreasonably refused the landlord access to the housing accommodations for the purpose of inspection or of showing the accommodations to a prospective purchaser, mortgagee, or prospective mortgagee, or other person having a legitimate interest therein: *Provided, however,* That such refusal shall not be ground for removal or eviction if such inspection or showing of the accommodations is contrary to the provisions of the tenant's lease or other rental agreement.

(4) *Accommodations entirely sublet.* The tenant's lease or other rental agreement has expired or otherwise terminated, and at the time of termination the occupants of the housing accommodations are subtenants or other persons who occupied under a rental agreement with the tenant, and no part of the accommodations is used by the tenant as his dwelling.

(5) *Landlord is a state or political subdivision thereof.* The housing accommodations have been acquired by a state or political subdivision thereof for the purpose of making a public improvement and are rented temporarily pending the construction of such improvement.

(6) *Company housing.* The housing accommodations are part of a company housing development in which occupancy has customarily been limited to employees of the landlord, and the tenant is no longer his employee.

(b) *Notices required.* (1) No tenant shall be removed or evicted from housing accommodations by court process or otherwise and no action or proceeding shall be commenced for such purpose upon any of the grounds permitted in paragraph (a) of this section unless and until the landlord shall have given written notice to the Area Rent Office and to the tenant as provided in this paragraph (b) (1).

Every such notice to a tenant to vacate or surrender possession of housing accommodations shall state the ground under this section upon which the landlord relies for removal or eviction of the tenant, the facts necessary to establish the existence of such ground, and the date when the tenant is required to surrender possession. Where the ground for removal or eviction of a tenant is nonpayment of rent such notice shall include a statement of the rent due and the rental period or periods for which such rent is due. A written copy of every notice required by this paragraph (b) (1) shall be filed with the Area Rent Office within 24 hours after such notice is given to the tenant.

Every such notice shall be given to the tenant at least the following period of time prior to the date specified therein for the surrender of possession and to the commencement of any action for removal or eviction:

(i) Where the ground specified in the notice for such removal or eviction is nonpayment of rent, not less than three days.

(ii) Where the notice specifies one or more of the grounds stated in paragraphs (a) (1) and (a) (2) of this section for such removal or eviction, not less than ten days.

(iii) Where the notice specifies the ground stated in paragraph (a) (3) of this section for such removal or eviction, not less than one month.

(iv) Where the notice specifies one or more of the grounds stated in paragraphs (a) (4), (a) (5) and (a) (6) of this section for such removal or eviction, not less than two months.

If judgment for possession is sought by virtue of a confession of judgment or by virtue of a warrant of attorney authorizing confession of such judgment against the tenant, the date of commencement of the action as referred to in this section shall be deemed to be the date of the filing in court of the first papers in the proceedings for the entry of such judgment.

(2) At the time of commencing any action to remove or evict a tenant, on any ground stated in paragraph (a) of this section the landlord shall give written notice thereof to the Area Rent Office, stating the title of the case, the number of the case where that is possible, the court in which it is filed, the name and address of the tenant, and the ground under said paragraph on which removal or eviction is sought.

(c) *Eviction certificate; grounds for issuance.* No tenant shall be removed or

evicted on grounds other than those stated in paragraph (a) of this section, unless on petition of the landlord the Housing Expediter certifies that the landlord may pursue his remedies in accordance with the requirements of local law. The certificate shall authorize the pursuit of local remedies at the expiration of the waiting period specified in paragraph (d) of this section. The Expediter shall so certify if he finds that removals or evictions of the character proposed are not inconsistent with the purposes of the Act or this regulation and would not be likely to result in the circumvention or evasion thereof. The Expediter shall so find in the following cases:

(1) *Occupancy by owner.* Where the landlord, who is the owner of the housing accommodations, establishes that he seeks in good faith to recover possession thereof for his immediate and personal use and occupancy as housing accommodations, or for the immediate and personal use and occupancy as housing accommodations by a member or members of his immediate family (see definition of "immediate family" at the end of this subparagraph (1)): *Provided, however,* That:

(i) Where the housing accommodations are located in a structure or premises which contain more than two housing accommodations and the housing accommodations or structure or premises are owned by two or more persons not constituting a cooperative corporation or association (husband and wife as owners being considered one owner for this purpose), no certificate shall be issued under this paragraph (c) (1) for occupancy of more than one housing accommodation and then only if none of the co-owners is already in occupancy of any housing accommodations in such structure or premises;

(ii) In the case of housing accommodations in a structure or premises owned by a cooperative corporation or association, no certificate shall be issued by the Expediter to a purchaser of stock or other evidence of interest in such cooperative, who is entitled by reason of such ownership of stock or other evidence of interest to possession of such housing accommodations by virtue of a proprietary lease or otherwise, unless stock or other evidence of interest in the cooperative has been purchased by persons who are tenants in occupancy of at least 65 percent of the housing accommodations in the structure or premises and are entitled by reason of such ownership to proprietary leases of housing accommodation in the structure or premises;

(iii) Where the owner or owners purchased and thereby acquired title to the housing accommodations on or after April 1, 1949, no certificate shall be issued under this paragraph (c) (1) unless such owner or owners made a payment or payments of principal totaling at least 10 percent of the purchase price, but this requirement shall not apply where the purchaser is a veteran of World War II, who, by virtue of his status as such, obtained a loan for use in purchasing such housing accommodations which was guaranteed in whole or in part by the Administrator of Veterans' Affairs.

For purposes of this paragraph (c) (1), the term "immediate family" includes only a son, son-in-law, daughter, daughter-in-law, father, father-in-law, mother, mother-in-law, stepchild and adopted child.

(2) *Occupancy by contract-purchaser.* Where it is established that a person has an enforceable contract to purchase the housing accommodations, and that he seeks in good faith to recover possession thereof for his immediate and personal use and occupancy as housing accommodations, or for the immediate and personal use and occupancy as housing accommodations by a member or members of his immediate family (as defined in subparagraph (1) of this paragraph); *Provided, however,* That:

(i) Where such purchase contract does not give the contract purchaser the right of immediate possession to the housing accommodations, no certificate shall be issued until after title has been transferred to the contract purchaser; and

(ii) It is established that such contract purchaser, if title were transferred, would be entitled to a certificate under subparagraph (1) of this paragraph.

(3) *Alterations or remodeling.* Where a landlord establishes that he seeks in good faith to recover possession for the immediate purpose of substantially altering or remodeling the housing accommodations, for continued use as housing accommodations, in a manner which cannot practicably be done with the tenant in possession, or for the immediate purpose of demolishing them, provided that the landlord has obtained such approval for the proposed alterations or remodeling or demolition as may be required by federal, state and local law.

(4) *Landlord is tax-exempt organization.* Where the landlord establishes that it is an organization exempt from taxation under section 101 (6) of the Internal Revenue Code, and that it seeks in good faith to recover possession of the housing accommodations for the immediate and personal use and occupancy as housing accommodations by members of its staff.

(5) *Withdrawal from rental market.* Where the landlord establishes that he seeks in good faith to recover possession of the housing accommodations for the immediate purpose of (i) making a permanent conversion to commercial use by substantially altering or remodeling them or (ii) personally making a permanent use of them for non-housing purposes or (iii) permanently withdrawing them from both the housing and non-housing rental markets without any intent to sell the housing accommodations.

(d) *Eviction certificates; waiting period.* Certificates issued under paragraph (c) of this section shall authorize the pursuit of local remedies at the expiration of three months from the date of the filing of the petition; *Provided, however,* That:

(1) In cases under paragraph (c) (5) of this section the waiting period shall be six months;

(2) In cases under paragraph (c) (2) (i) of this section the waiting period shall extend at least until two months from the date the certificate is issued;

(3) In any case where the Expediter finds that by reason of exceptional circumstances extreme hardship would result to the landlord, he may waive all or part of the waiting period.

(e) *Change of intention.* Any certificate issued under paragraph (c) of this section shall not be used in connection with any action to remove or evict a tenant unless such removal or eviction is sought for the purpose specified in the certificate.

In the event that the landlord's intentions or circumstances so change that the premises, possession of which is sought, will not be used for the purpose specified in the certificate, the certificate shall thereupon be null and void. The landlord shall immediately notify the Area Rent Director in writing and surrender the certificate for cancellation.

(f) *Local law.* No provision of this section shall be construed to prohibit a landlord who has obtained a certificate under paragraph (c) of this section from serving, prior to the expiration of the waiting period specified in said certificate, such notice or notices as may be required by the local law: *Provided,* That such notice or notices do not demand surrender of possession until after expiration of said waiting period.

(g) *Exceptions.* The provisions of this section do not apply to:

(1) *Subtenants.* A subtenant or other person who occupies or occupied under a rental agreement with the tenant, where removal or eviction of the subtenant or other such occupant is sought by the landlord of the tenant, unless the rental agreement between the landlord and tenant contemplated the subletting by the tenant of the entire accommodations or substantially all of the individual units therein, or unless under the local law there is a tenancy relationship between the landlord and the subtenant or other such occupant.

(2) *Public housing.* Notwithstanding any other provisions of this section, the United States or any State or local public agency may maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action or proceeding is authorized by the statute or regulations under which such accommodations are administered.

(h) *Pending cases.* (1) In any case where a landlord has given a tenant a written notice, prior to April 1, 1949, in accordance with section 209 (c) of the Housing and Rent Act of 1947, as amended, as it read prior to April 1, 1949, or where no notice was required by that section of said act, and a court proceeding for removal or eviction is pending on April 1, 1949, the landlord need not comply with the notice requirements under paragraph (b) of this section: *Provided,* That the ground for removal or eviction relied upon in such cases is a ground for removal or eviction under paragraph (a) of this section. If in any such case the ground for removal or eviction is not a ground for removal or eviction under paragraph (a) of this section and a certificate is applied for and issued in accordance with paragraph (c) of this section the Housing Expediter may reduce the waiting period, taking

into consideration the time elapsed since notice was given.

(2) The provisions of this section shall not apply to any case in which judgment was entered prior to April 1, 1949 by a court of competent jurisdiction for the eviction or removal of a tenant from housing accommodations.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, by 62 Stat. 94 and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d))

This amendment shall become effective April 1, 1949.

Issued this 1st day of April 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2539; Filed, Apr. 1, 1949; 3:46 p. m.]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg., New York City Defense-Rental Area,[1] Amdt. 9]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

RENT REGULATION FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS IN THE NEW YORK CITY DEFENSE-RENTAL AREA

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments in the New York City Defense-Rental Area (§§ 825.101 to 825.112) is amended in the following respects:

1. The definition of "hotel" contained in § 825.101 is deleted.

2. In § 825.101 the definition of "date determining maximum rent" is deleted.

3. Section 825.101 (b) (2) is amended to read as follows:

(2) *Decontrolled housing to which §§ 825.101 to 825.112, do not apply.* Sections 825.101 to 825.112 do not apply to the following:

(i) *Rooms in hotels.* (*a*) In cities of less than 2,500,000 population according to the 1940 decennial census, those rooms in any hotel which on June 30, 1947, were occupied by persons to whom were provided customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy services (not necessarily all the types of services named need be provided in all cases as long as enough are provided to constitute customary hotel services usually supplied in establishments commonly known as hotels in the community where they are located). For purposes of this paragraph (b) (2) (i) (*a*), the term "hotel" means any establishment which is commonly known as a hotel in the community in which it is located and which provides customary hotel services.

(*b*) In cities of 2,500,000 population or more according to the 1940 decennial census, (*1*) those rooms which are located in hotels in which on March 1, 1949, 75 percent or more of the occupied rooms were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more, or (2) those rooms which are not located in hotels described in subdivision (*1*) but which on March 1, 1949, were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more. For purposes of this paragraph (b) (2) (i) (*b*), the term "hotel" means any establishment which on June 30, 1947, was commonly known as a hotel in the community in which it is located and in which at least an appreciable number of its occupants were provided with customary hotel service such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy service.

(ii) *Motor courts.* Rooms in establishments which were motor courts on June 30, 1947.

(iii) *Trailer or trailer space.* Trailers and ground space rented for trailers, which on April 1, 1949, were used exclusively for transient occupancy, i. e., rented on a daily basis to tenants who had not continuously resided therein on and since March 1, 1949.

(iv) *Tourist homes.* Rooms in any tourist home serving transient guests exclusively on June 30, 1947.

(v) *Other establishments.* Rooms in other establishments (see definition of other establishments in this section) which on June 30, 1947, were occupied by persons who were provided customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and unkeep of furniture and fixtures, and bellboy service.

(vi) *Rooms created by new construction or change from non-housing use.* (*a*) Rooms the construction of which was completed, or which were created by a change from a non-housing to a housing use, on or after February 1, 1947: *Provided, however,* That maximum rents established under the Veterans' Emergency Housing Act for priority constructed housing accommodations completed on or after February 1, 1947, shall continue in full force and effect, if such accommodations are being rented to veterans of World War II or their immediate families, who, on June 30, 1947, either (*1*) occupied such housing accommodations, or (2) had a right to occupy such housing accommodations at any time on or after July 1, 1947, under any agreement whether written or oral.

(*b*) Rooms the construction of which was completed between February 1, 1945, and January 31, 1947, both dates inclusive, and which between the date of completion and June 30, 1947, both dates inclusive, at no time were rented as housing accommodations (other than to members of the immediate family of the landlord).

For purposes of this paragraph (b) (2) (vi):

The time at which construction of a room shall be deemed to be "completed" shall be the date on which the room is first suitable for occupancy and all utility and service connections have been made, except for the installation of such items and the completion of such decoration work, as, in accordance with the custom of the community, are left for installation by, or to the choice of, the purchaser or the tenant.

(vii) *Additional housing accommodations created by conversion.* (*a*) Additional housing accommodations created on or after February 1, 1947, by a conversion (i. e., a structural change in a residential unit or units involving substantial alterations and remodeling) which was created on or before March 31, 1949, but subject to the proviso clause set forth in paragraph (b) (2) (vi) (*a*).

(*b*) Housing accommodations as to which a decontrol order has been entered by the Housing Expediter based on a conversion created on or after April 1, 1949, but subject to the proviso clause set forth in paragraph (b) (2) (vi) (*a*). On petition by the owner such a decontrol order shall be entered by the Housing Expediter, if the following facts are established:

(*1*) There has been a structural change in a residential unit or units involving substantial alterations or remodeling; and

(2) Such change has resulted in additional, self-contained family units.

For purposes of this paragraph (b) (2) (vii):

The term "self-contained family unit" means a housing accommodation with private access, containing one or more rooms in addition to a kitchen (including kitchenette or pullman kitchen) and a private bathroom: *Provided, however,* That where a housing accommodation meets all these conditions except that it has no private bathroom or no bathroom facilities other than toilet, the Area Rent Director may waive such requirement if he finds that the accommodation is of the type recognized as a self-contained family unit in the neighborhood in which it is located.

(viii) *Non-housekeeping furnished accommodations.* Non-housekeeping furnished accommodations, located within a single dwelling unit not used as a rooming or boarding house, but only if no more than two paying tenants, not members of the landlord's immediate family live in such dwelling unit, and the remaining portion of such dwelling unit is occupied by the landlord or his immediate family. (See definition of rooming house in this section.)

4. Section 825.103 is amended to read as follows:

Every landlord shall, as a minimum, provide with controlled rooms the same living space and the same essential services, furniture, furnishings and equipment as were provided on the date determining the maximum rent, and as to other services, furniture, furnishings and equipment not substantially less than those provided on the date determining the maximum rent, plus or minus any increases or decreases made pursuant to § 825.105 (a) (3) or § 825.105 (b) or the comparable provisions of the rent regulations issued pursuant to the Emergency Price Control Act of 1942, as amended.

5. Sections 825.104 (a) and (b) are amended to read as follows:

[1] 13 F. R. 8391; 14 F. R. 19.

§ 825.104 *Maximum rents*—(a) *Maximum rents in effect on June 30, 1947.* Except as otherwise provided in this section, the maximum rents for any room subject to §§ 825.101 to 825.112 shall be the maximum rents which were in effect on June 30, 1947, as established under the Emergency Price Control Act of 1942, as amended, and the applicable rent regulation issued thereunder, plus or minus adjustments under § 825.105.

(b) *Maximum rents in statutory lease cases.* (1) For controlled rooms concerning which a statutory lease is in effect the maximum rent, until such lease is terminated or expires, shall be the rent set forth in such lease.

(2) For controlled rooms concerning which a statutory lease has heretofore terminated or expired or hereafter terminates or expires, the maximum rent shall be the rent set forth in such lease, plus or minus adjustments under § 825.105: *Provided, however,* That if such controlled rooms are in a defense-rental area in which a general increase in maximum rents has been or is hereafter granted, the maximum rent shall be such lease rent plus or minus adjustments under § 825.105, or the maximum rent in the absence of a lease, whichever is higher.

Reporting requirements. A landlord shall file a report in the Area Rent Office, on a form provided by the Expediter, of any termination of a statutory lease prior to the expiration date of the lease, unless such report was filed prior to April 1, 1949. Such report shall be filed within fifteen days after such termination or fifteen days after April 1, 1949, whichever is later.

For purposes of this paragraph (b), the term "statutory lease" means a lease as described in section 204 (b) (2) or 204 (b) (3) of the Housing and Rent Act of 1947, as amended, and § 825.101 (b) (2) (v), as they read prior to April 1, 1949.

6. In § 825.104 paragraph (h) is deleted and a new paragraph (h) is added to read as follows:

(h) *Recontrolled rooms in hotels.* In the case of those controlled rooms in hotels which were not included as controlled rooms on March 31, 1949, the maximum rent shall be the rent in effect for such accommodations on March 1, 1949.

7. A new unnumbered paragraph is added immediately prior to § 825.105 (a) to read as follows:

Any landlord who files a petition under this section for adjustment to increase the maximum rent otherwise allowable shall certify that he is maintaining all services required by this regulation and that he will continue to maintain such services so long as the adjustment in such maximum rent which may be granted continues in effect.

8. Section 825.109 is redesignated as § 825.109 (a).

9. Section 825.106 is redesignated as § 825.109 (b), and is amended to read as follows:

(b) Any person who rents or offers for rent, or acts as a broker or agent for the rental of any controlled housing accommodations shall, as the Housing Expediter may from time to time require, (1) furnish information under oath or affirmation or otherwise, (2) make and keep records and other documents, (3) make reports, (4) permit inspection and copying of records and other documents and (5) permit inspection of controlled housing accommodations.

10. A new § 825.106 is added to read as follows:

§ 825.106 *Removal of tenant*—(a) *Restrictions on removal of tenant.* So long as the tenant continues to pay the rent to which the landlord is entitled, no tenant shall be removed from any housing accommodations by action to evict or to recover possession, by exclusion from possession, or otherwise, nor shall any person attempt such removal or exclusion from possession, notwithstanding that such tenant has no lease or that his lease or other rental agreement has expired or otherwise terminated, and regardless of any contract, least, agreement or obligation heretofore or hereafter entered into which provides for surrender of possession, or for entry of judgment upon the tenant's confession for breach of the covenants thereof, or which otherwise provides contrary hereto, except on one or more of the grounds specified in this paragraph (a), or unless the landlord has obtained a certificate in accordance with paragraph (c) of this section: *Provided, however,* That no provision of this section shall be construed to authorize the removal of a tenant unless such removal is authorized under local law.

(1) *Violating substantial obligation of tenancy.* The tenant is violating a substantial obligation of his tenancy, other than an obligation to pay rent or an obligation to surrender possession of the housing accommodations, and has continued or failed to cure such violation after a written notice by the landlord that the violation cease.

(2) *Nuisance or illegal or immoral use.* Under the local law, the tenant (i) is committing or permitting a nuisance in the housing accommodations or (ii) is using or permitting a use of such housing accommodations for an immoral or illegal purpose.

(3) *Tenant's refusal of access to landlord.* The tenant has unreasonably refused the landlord access to the housing accommodations for the purpose of inspection or of showing the accommodations to a prospective purchaser, mortgagee, or prospective mortgagee, or other person having a legitimate interest therein: *Provided, however,* That such refusal shall not be ground for removal or eviction if such inspection or showing of the accommodations is contrary to the provisions of the tenant's lease or other rental agreement.

(4) *Company housing.* The housing accommodations are part of a company housing development in which occupancy has customarily been limited to employees of the landlord, and the tenant is no longer his employee.

(b) *Notices required.* (1) No tenant shall be removed or evicted from housing accommodations by court process or otherwise and no action or proceeding shall be commenced for such purpose upon any of the grounds permitted in paragraph (a) of this section unless and until the landlord shall have given written notice to the Area Rent Office and to the tenant as provided in this paragraph (b) (1).

Every such notice to a tenant to vacate or surrender possession of housing accommodations shall state the ground under this section upon which the landlord relies for removal or eviction of the tenant, the facts necessary to establish the existence of such ground, and the date when the tenant is required to surrender possession. Where the ground for removal or eviction of a tenant is nonpayment of rent, such notice shall include a statement of the rent due and the rental period or periods for which such rent is due. A written copy of every notice required by this paragraph (b) (1) shall be filed with the Area Rent Office within 24 hours after such notice is given to the tenant.

Every such notice shall be given to the tenant at least ten days prior to the date specified for the surrender of possession and to the commencement of any action for removal or eviction, except where the ground specified in the notice for removal or eviction is non-payment of rent, in which case such notice shall be given at least three days prior to such date.

If judgment for possession is sought by virtue of a confession of judgment or by virtue of a warrant of attorney authorizing confession of such judgment against the tenant, the date of commencement of the action as referred to in this section shall be deemed to be the date of the filing in court of the first papers in the proceedings for the entry of such judgment.

(2) At the time of commencing any action to remove or evict a tenant, on any ground stated in paragraph (a) of this section the landlord shall given written notice thereof to the Area Rent Office, stating the title of the case, the number of the case where that is possible, the court in which it is filed, the name and address of the tenant, and the ground under said subsection on which removal or eviction is sought.

(c) *Eviction certificates.* No tenant shall be removed or evicted on grounds other than those stated in paragraph (a) of this section unless on petition of the landlord the Housing Expediter certifies that the landlord may pursue his remedies in accordance with the requirements of local law. The Expediter shall so certify if he finds that removals or evictions of the character proposed are not inconsistent with the purposes of the Act or this regulation and would not be likely to result in the circumvention or evasion thereof.

The certificate shall authorize the pursuit of local remedies at the expiration of three months after the date of the filing of the petition. In any case where the Expediter finds that by reason of exceptional circumstances extreme hardship would result to the landlord, he may waive all or part of the waiting period.

(d) *Change of intention.* Any certificate issued under paragraph (c) of this section shall not be used in connection with any action to remove or evict a

tenant unless such removal or eviction is sought for the purpose specified in the certificate.

In the event that the landlord's intentions or circumstances so change that the premises, possession of which is sought, will not be used for the purpose specified in the certificate, the certificate shall thereupon be null and void. The landlord shall immediately notify the Area Rent Director in writing and surrender the certificate for cancellation.

(e) *Local law.* No provision of this section shall be construed to prohibit a landlord who has obtained a certificate under paragraph (c) of this section from serving, prior to the expiration of the waiting period specified in said certificate, such notice or notices as may be required by the local law, provided that such notice or notices do not demand surrender of possession until after expiration of said waiting period.

(f) *Exceptions.* The provisions of this section do not apply to:

(1) *Subtenants.* A subtenant or other person who occupies or occupied under a rental agreement with the tenant, where removal or eviction of the subtenant or other such occupant is sought by the landlord of the tenant, unless the rental agreement between the landlord and tenant contemplated the subletting by the tenant of the entire accommodations or substantially all of the individual units therein, or unless under the local law there is a tenancy relationship between the landlord and the subtenant or other such occupant.

(2) *Daily tenants.* A tenant occupying the housing accommodations on a daily basis, except that the provisions of this section do apply to any such tenant who has occupied the housing accommodations for a continuous period of thirty days or more.

(3) *Public housing.* Notwithstanding any other provisions of this section, the United States or any State or local public agency may maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action or proceeding is authorized by the statute or regulations under which such accommodations are administered.

(g) *Pending cases.* (1) In any case where a landlord has given a tenant a written notice, prior to April 1, 1949, in accordance with section 209 (c) of the Housing and Rent Act of 1947, as amended, as it read prior to April 1, 1949, or where no notice was required by that section of said act and a court proceeding for removal or eviction is pending on April 1, 1949, the landlord need not comply with the notice requirements under paragraph (b) of this section provided that the ground for removal or eviction relied upon in such cases is a ground for removal or eviction under paragraph (a) of this section. If in any such case the ground for removal or eviction is not a ground for removal or eviction under paragraph (a) of this section and a certificate is applied for and issued in accordance with paragraph (c) of this section the Housing Expediter may reduce the waiting period, taking into consideration the time elapsed since notice was given.

(2) The provisions of this section shall not apply to any case in which judgment was entered prior to April 1, 1940 by a court of competent jurisdiction for the eviction or removal of a tenant from housing accommodations.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, 62 Stat. 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d))

This amendment shall become effective April 1, 1949.

Issued this 1st day of April 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2548; Filed, Apr. 1, 1949; 4:00 p. m.]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg.,[1] Amdt. 73]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

RENT REGULATION FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is amended in the following respects:

1. The definition of "hotel" contained in § 825.81 is deleted.

2. In § 825.81 the definition of "date determining maximum rent" is deleted.

3. Section 825.81 (b) (2) is amended to read as follows:

(2) *Decontrolled housing to which §§ 825.81 to 825.92 do not apply.* Sections 825.81 to 825.92 do not apply to the following:

(i) *Rooms in hotels.* (*a*) In cities of less than 2,500,000 population according to the 1940 decennial census, those rooms in any hotel which on June 30, 1947, were occupied by persons to whom were provided customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy services (not necessarily all the types of services named need be provided in all cases as long as enough are provided to constitute customary hotel services usually supplied in establishments commonly known as hotels in the community where they are located. For purposes of this paragraph (b) (2) (i) (*a*), the term "hotel" means any establishment which is commonly known as a hotel in the community in which it is located and which provides customary hotel services.

(*b*) In cities of 2,500,000 population or more according to the 1940 decennial census, (*1*) those rooms which are located in hotels in which on March 1, 1949, 75 percent or more of the occupied rooms were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more, or (2) those rooms which are not located in hotels described in (*1*) but which on March 1, 1949, were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more. For purposes of this paragraph (b) (2) (i) (*b*), the term "hotel" means any establishment which on June 30, 1947, was commonly known as a hotel in the community in which it is located and in which at least an appreciable number of its occupants were provided with customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy service.

(ii) *Motor courts.* Rooms in establishments which were motor courts on June 30, 1947.

(iii) *Trailer or trailer space.* Trailers and ground space rented for trailers, which on April 1, 1949 were used exclusively for transient occupancy, i. e., rented on a daily basis to tenants who had not continuously resided therein on and since March 1, 1949.

(iv) *Tourist homes.* Rooms in any tourist home serving transient guests exclusively on June 30, 1947.

(v) *Other establishments.* Rooms in other establishments (see definition of other establishments in this section) which on June 30, 1947, were occupied by persons who were provided customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy service.

(vi) *Rooms created by new construction or change from non-housing use.* (*a*) Rooms the construction of which was completed, or which were created by a change from a non-housing to a housing use, on or after February 1, 1947: *Provided, however,* That maximum rents established under the Veterans' Emergency Housing Act for priority constructed housing accommodations completed on or after February 1, 1947, shall continue in full force and effect, if such accommodations are being rented to veterans of World War II or their immediate families, who, on June 30, 1947, either (*1*) occupied such housing accommodations, or (2) had a right to occupy such housing accommodations at any time on or after July 1, 1947, under any agreement whether written or oral.

(*b*) Rooms the construction of which was completed between February 1, 1945, and January 31, 1947, both dates inclusive, and which between the date of completion and June 30, 1947, both dates inclusive, at no time were rented as housing accommodations (other than to members of the immediate family of the landlord).

For purposes of this paragraph (b) (2) (vi):

The time at which construction of a room shall be deemed to be "completed" shall be the date on which the room is first suitable for occupancy and all utility and service connections have been made, except for the installation of such items and the completion of such decoration work, as, in accordance with the custom of the community, are left for in-

[1] 13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411, 6556, 6882, 6911, 7299, 7672, 7801, 7862, 8218, 8328, 8388; 14 F. R. 18, 272, 337, 457, 627, 682, 695, 857, 918, 978, 1083, 1345.

stallation by, or to the choice of, the purchaser or the tenant.

(vii) *Additional housing accommodations created by conversion.* (a) Additional housing accommodations created on or after February 1, 1947, by a conversion (i. e., a structural change in a residential unit or units involving substantial alterations and remodeling) which was created on or before March 31, 1949, but subject to the proviso clause set forth in paragraph (b) (2) (vi) (*a*).

(*b*) Housing accommodations as to which a decontrol order has been entered by the Housing Expediter based on a conversion created on or after April 1, 1949, but subject to the proviso clause set forth in paragraph (b) (2) (vi) (*a*). On petition by the owner such a decontrol order shall be entered by the Housing Expediter, if the following facts are established:

(*1*) There has been a structural change in a residential unit or units involving substantial alterations or remodeling; and

(2) Such change has resulted in additional, self-contained family units.

For purposes of this paragraph (b) (2) (vii):

The term "self-contained family unit" means a housing accommodation with private access, containing one or more rooms in addition to a kitchen (including kitchenette or pullman kitchen) and a private bathroom: *Provided, however,* That where a housing accommodation meets all these conditions except that it has no private bathroom or no bathroom facilities other than toilet, the Area Rent Director may waive such requirement if he finds that the accommodation is of the type recognized as a self-contained family unit in the neighborhood in which it is located.

(viii) *Non-housekeeping furnished accommodations.* Non-housekeeping furnished accommodations, located within a single dwelling unit not used as a rooming or boarding house, but only if no more than two paying tenants, not members of the landlord's immediate family live in such dwelling unit, and the remaining portion of such dwelling unit is occupied by the landlord or his immediate family. (See definition of rooming house in this section.)

4. Section 825.83 is amended to read as follows:

Every landlord shall, as a minimum, provide with controlled rooms the same living space and the same essential services, furniture, furnishings and equipment as were provided on the date determining the maximum rent, and as to other services, furniture, furnishings and equipment not substantially less than those provided on the date determining the maximum rent, plus or minus any increases or decreases made pursuant to § 825.85 (a) (3) or (b) or the comparable provisions of the rent regulations issued pursuant to the Emergency Price Control Act of 1942, as amended.

5. Sections 825.84 (a) and (b) are amended to read as follows:

§ 825.84 *Maximum rents*—(a) *Maximum rents in effect on June 30, 1947.* Except as otherwise provided in this section, the maximum rents for any room subject to §§ 825.81 to 825.92, shall be the maximum rents which were in effect on June 30, 1947, as established under the Emergency Price Control Act of 1942, as amended, and the applicable rent regulation issued thereunder, plus on minus adjustments under § 825.85.

(b) *Maximum rents in statutory lease cases.* (1) For controlled rooms concerning which a statutory lease is in effect the maximum rent, until such lease is terminated or expires, shall be the rent set forth in such lease.

(2) For controlled rooms concerning which a statutory lease has heretofore terminated or expired or hereafter terminates or expires, the maximum rent shall be the rent set forth in such lease, plus or minus adjustments under § 825.85: *Provided, however,* That if such controlled rooms are in a defense-rental area in which a general increase in maximum rents has been or is hereafter granted, the maximum rent shall be such lease rent plus or minus adjustments under § 825.85, or the maximum rent in the absence of a lease, whichever is higher.

Reporting requirements. A landlord shall file a report in the Area Rent Office, on a form provided by the Expediter, of any termination of a statutory lease prior to the expiration date of the lease, unless such report was filed prior to April 1, 1949. Such report shall be filed within fifteen days after such termination or fifteen days after April 1, 1949, whichever is later.

For purposes of this paragraph (b), the term "statutory lease" means a lease as described in section 204 (b) (2) or 204 (b) (3) of the Housing and Rent Act of 1947, as amended, and § 825.81 (b) (2) (v), as they read prior to April 1, 1949.

6. In § 825.84, paragraph (h) is deleted and a new paragraph (h) is added to read as follows:

(h) *Recontrolled rooms in hotels.* In the case of those controlled rooms in hotels which were not included as controlled rooms on March 31, 1949, the maximum rent shall be the rent in effect for such accommodations on March 1, 1949.

7. A new unnumbered paragraph is added immediately prior to § 825.85 (a) to read as follows:

Any landlord who files a petition under this section for adjustment to increase the maximum rent otherwise allowable shall certify that he is maintaining all services required by this regulation and that he will continue to maintain such services so long as the adjustment in such maximum rent which may be granted continues in effect.

8. Section 825.89 is redesignated as § 825.89 (a).

9. Section 825.86 is redesignated as § 825.89 (b), and is amended to read as follows:

(b) Any person who rents or offers for rent, or acts as a broker or agent for the rental of, any controlled housing accommodations shall, as the Housing Expediter may from time to time require; (1) furnish information under oath or affirmation or otherwise, (2) make and keep records and other documents, (3) make reports, (4) permit inspection and copying of records and other documents and (5) permit inspection of controlled housing accommodations.

10. A new § 825.86 is added to read as follows:

§ 825.86 *Removal of tenant*—(a) *Restrictions on removal of tenant.* So long as the tenant continues to pay the rent to which the landlord is entitled, no tenant shall be removed from any housing accommodations by action to evict or to recover possession, by exclusion from possession, or otherwise, nor shall any person attempt such removal or exclusion from possession, notwithstanding that such tenant has no lease or that his lease or other rental agreement has expired or otherwise terminated, and regardless of any contract, lease, agreement or obligation heretofore or hereafter entered into which provides for surrender of possession, or for entry of judgment upon the tenant's confession for breach of the covenants thereof, or which otherwise provides contrary hereto, except on one or more of the grounds specified in this paragraph (a), or unless the landlord has obtained a certificate in accordance with paragraph (c) of this section: *Provided, however,* That no provision of this section shall be construed to authorize the removal of a tenant unless such removal is authorized under local law.

(1) *Violating substantial obligation of tenancy.* The tenant is violating a substantial obligation of his tenancy, other than an obligation to pay rent or an obligation to surrender possession of the housing accommodations, and has continued or failed to cure such violation after a written notice by the landlord that the violation cease.

(2) *Nuisance or illegal or immoral use.* Under the local law, the tenant (i) is committing or permitting a nuisance in the housing accommodations or (ii) is using or permitting a use of such housing accommodations for an immoral or illegal purpose.

(3) *Tenant's refusal of access to landlord.* The tenant has unreasonably refused the landlord access to the housing accommodations for the purpose of inspection or of showing the accommodations to a prospective purchaser, mortgagee, or prospective mortgagee, or other person having a legitimate interest therein: *Provided, however,* That such refusal shall not be ground for removal or eviction if such inspection or showing of the accommodations is contrary to the provisions of the tenant's lease or other rental agreement.

(4) *Company housing.* The housing accommodations are part of a company housing development in which occupancy has customarily been limited to employees of the landlord, and the tenant is no longer his employee.

(b) *Notices required.* (1) No tenant shall be removed or evicted from housing accommodations by court process or otherwise and no action or proceeding shall be commenced for such purpose upon any of the grounds permitted in paragraph (a) of this section unless and until the landlord shall have given writ-

ten notice to the Area Rent Office and to the tenant as provided in this paragraph (b) (1).

Every such notice to a tenant to vacate or surrender possession of housing accommodations shall state the ground under this section upon which the landlord relies for removal or eviction of the tenant, the facts necessary to establish the existence of such ground, and the date when the tenant is required to surrender possession. Where the ground for removal or eviction of a tenant is nonpayment of rent, such notice shall include a statement of the rent due and the rental period or periods for which such rent is due. A written copy of every notice required by this paragraph (b) (1) shall be filed with the Area Rent Office within 24 hours after such notice is given to the tenant.

Every such notice shall be given to the tenant at least ten days prior to the date specified for the surrender of possession and to the commencement of any action for removal or eviction, except where the ground specified in the notice for removal or eviction is non-payment of rent, in which case such notice shall be given at least three days prior to such date.

If judgment for possession is sought by virtue of a confession of judgment or by virtue of a warrant of attorney authorizing confession of such judgment against the tenant, the date of commencement of the action as referred to in this section shall be deemed to be the date of the filing in court of the first papers in the proceedings for the entry of such judgment.

(2) At the time of commencing any action to remove or evict a tenant, on any ground stated in paragraph (a) of this section the landlord shall give written notice thereof to the Area Rent Office, stating the title of the case, the number of the case where that is possible, the court in which it is filed, the name and address of the tenant, and the ground under said paragraph on which removal or eviction is sought.

(c) *Eviction certificates.* No tenant shall be removed or evicted on grounds other than those stated in paragraph (a) of this section unless on petition of the landlord the Housing Expediter certifies that the landlord may pursue his remedies in accordance with the requirements of local law. The Expediter shall so certify if he finds that removals or evictions of the character proposed are not inconsistent with the purposes of the act or this regulation and would not be likely to result in the circumvention or evasion thereof.

The certificate shall authorize the pursuit of local remedies at the expiration of three months after the date of the filing of the petition. In any case where the Expediter finds that by reason of exceptional circumstances extreme hardship would result to the landlord, he may waive all or part of the waiting period.

(d) *Change of intention.* Any certificate issued under paragraph (c) of this section shall not be used in connection with any action to remove or evict a tenant unless such removal or eviction is sought for the purpose specified in the certificate.

In the event that the landlord's intentions or circumstances so change that the premises, possession of which is sought, will not be used for the purpose specified in the certificate, the certificate shall thereupon be null and void. The landlord shall immediately notify the Area Rent Director in writing and surrender the certificate for cancellation.

(e) *Local Law.* No provision of this section shall be construed to prohibit a landlord who has obtained a certificate under paragraph (c) of this section from serving, prior to the expiration of the waiting period specified in said certificate, such notice or notices as may be required by the local law: *Provided,* That such notice or notices do not demand surrender of possession until after expiration of said waiting period.

(f) *Exceptions.* The provisions of this section do not apply to:

(1) *Subtenants.* A subtenant or other person who occupies or occupied under a rental agreement with the tenant, where removal or eviction of the subtenant or other such occupant is sought by the landlord of the tenant, unless the rental agreement between the landlord and tenant contemplated the subletting by the tenant of the entire accommodations or substantially all of the individual units therein, or unless under the local law there is a tenancy relationship between the landlord and the subtenant or other such occupant.

(2) *Daily tenants.* A tenant occupying the housing accommodations on a daily basis, except that the provisions of this section do apply to any such tenant who has occupied the housing accommodations for a continuous period of thirty days or more.

(3) *Public housing.* Notwithstanding any other provisions of this section, the United States or any State or local public agency may maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action or proceeding is authorized by the statute or regulations under which such accommodations are administered.

(g) *Pending cases.* (1) In any case where a landlord has given a tenant a written notice, prior to April 1, 1949, in accordance with section 209 (c) of the Housing and Rent Act of 1947, as amended, as it read prior to April 1, 1949, or where no notice was required by that section of said act and a court proceeding for removal or eviction is pending on April 1, 1949, the landlord need not comply with the notice requirements under paragraph (b) of this section provided that the ground for removal or eviction relied upon in such cases is a ground for removal or eviction under paragraph (a) of this section. If in any such case the ground for removal or eviction is not a ground for removal or eviction under paragraph (a) of this section and a certificate is applied for and issued in accordance with paragraph (c) of this section the Housing Expediter may reduce the waiting period, taking into consideration the time elapsed since notice was given.

(2) The provisions of this section shall not apply to any case in which judgment was entered prior to April 1, 1949, by a court of competent jurisdiction for the eviction or removal of a tenant from housing accommodations.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, 62 Stat. 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d))

This amendment shall become effective April 1, 1949.

Issued this 1st day of April 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2547; Filed, Apr. 1, 1949; 4:00 p. m.]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg., Miami Defense-Rental Area,[1] Amdt. 11]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

RENT REGULATION FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS IN MIAMI DEFENSE-RENTAL AREA

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments in Miami Defense-Rental Area (§§ 825.121 to 825.132) is amended in the following respects:

1. The definition of "hotel" contained in § 825.121 is deleted.

2. In § 825.121 the definition of "date determining maximum rent" is deleted.

3. Section 825.121 (b) (2) is amended to read as follows:

(2) *Decontrolled housing to which §§ 825.121 to 825.132 do not apply.* Sections 825.121 to 825.132 do not apply to the following:

(i) *Rooms in hotels.* (*a*) In cities of less than 2,500,000 population according to the 1940 decennial census, those rooms in any hotel which on June 30, 1947, were occupied by persons to whom were provided customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy services (not necessarily all the types of services named need be provided in all cases as long as enough are provided to constitute customary hotel services usually supplied in establishments commonly known as hotels in the community where they are located). For purposes of this paragraph (b) (2) (i) (*a*), the term "hotel" means any establishment which is commonly known as a hotel in the community in which it is located and which provides customary hotel services.

(*b*) In cities of 2,500,000 population or more according to the 1940 decennial census, (*1*) those rooms which are located in hotels in which on March 1, 1949, 75 percent or more of the occupied rooms were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more, or (2) those rooms which are not located in hotels described in (*1*) but which on

[1] 13 F. R. 8392; 14 F. R. 20, 978.

March 1, 1949, were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more. For purposes of this paragraph (b) (2) (i) (*b*), the term "hotel" means any establishment which on June 30, 1947, was commonly known as a hotel in the community in which it is located and in which at least an appreciable number of its occupants were provided with customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy service.

(ii) *Motor courts.* Rooms in establishments which were motor courts on June 30, 1947.

(iii) *Trailer or trailer space.* Trailers and ground space rented for trailers, which on April 1, 1949, were used exclusively for transient occupancy; i. e., rented on a daily basis to tenants who had not continuously resided therein on and since March 1, 1949.

(iv) *Tourist homes.* Rooms in any tourist home serving transient guests exclusively on June 30, 1947.

(v) *Other establishments.* Rooms in other establishments (see definition of other establishments in this section) which on June 30, 1947, were occupied by persons who were provided customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy service.

(vi) *Rooms created by new construction or change from non-housing use.* (*a*) Rooms the construction of which was completed, or which were created by a change from a non-housing to a housing use, on or after February 1, 1947: *Provided, however,* That maximum rents established under the Veterans' Emergency Housing Act for priority constructed housing accommodations completed on or after February 1, 1947, shall continue in full force and effect, if such accommodations are being rented to veterans of World War II or their immediate families, who, on June 30, 1947, either (*1*) occupied such housing accommodations, or (2) had a right to occupy such housing accommodations at any time on or after July 1, 1947, under any agreement whether written or oral.

(*b*) Rooms the construction of which was completed between February 1, 1945, and January 31, 1947, both dates inclusive, and which between the date of completion and June 30, 1947, both dates inclusive, at no time were rented as housing accommodations (other than to members of the immediate family of the landlord).

For purposes of this paragraph (b) (2) (vi):

The time at which construction of a room shall be deemed to be "completed" shall be the date on which the room is first suitable for occupancy and all utility and service connections have been made, except for the installation of such items and the completion of such decoration work, as, in accordance with the custom of the community, are left for installation by, or to the choice of, the purchaser or the tenant.

(vii) *Additional housing accommodations created by conversion.* (*a*) Additional housing accommodations created on or after February 1, 1947, by a conversion (i. e., a structural change in a residential unit or units involving substantial alterations and remodeling) which was created on or before March 31, 1949, but subject to the proviso clause set forth in paragraph (b) (2) (vi) (*a*).

(*b*) Housing accommodations as to which a decontrol order has been entered by the Housing Expediter based on a conversion created on or after April 1, 1949, but subject to the proviso clause set forth in paragraph (b) (2) (vi) (*a*). On petition by the owner such a decontrol order shall be entered by the Housing Expediter, if the following facts are established:

(*1*) There has been a structural change in a residential unit or units involving substantial alterations or remodeling; and

(*2*) Such change has resulted in additional, self-contained family units.

For purposes of this paragraph (b) (2) (vii):

The term "self-contained family unit" means a housing accommodation with private access, containing one or more rooms in addition to a kitchen (including kitchenette or pullman kitchen) and a private bathroom: *Provided, however,* That where a housing accommodation meets all these conditions except that it has no private bathroom or no bathroom facilities other than toilet, the Area Rent Director may waive such requirement if he finds that the accommodation is of the type recognized as a self-contained family unit in the neighborhood in which it is located.

(viii) *Non-housekeeping furnished accommodations.* Non-housekeeping furnished accommodations, located within a single dwelling unit not used as a rooming or boarding house, but only if no more than two paying tenants, not members of the landlord's immediate family live in such dwelling unit, and the remaining portion of such dwelling unit is occupied by the landlord or his immediate family. (See definition of rooming house in this section).

4. Section 825.123 is amended to read as follows:

Every landlord shall, as a minimum, provide with controlled rooms the same living space and the same essential services, furniture, furnishings and equipment as were provided on the date determining the maximum rent, and as to other services, furniture, furnishings and equipment not substantially less than those provided on the date determining the maximum rent, plus or minus any increases or decreases made pursuant to § 825.125 (a) (3) or § 825.125 (b) or the comparable provisions of the rent regulations issued pursuant to the Emergency Price Control Act of 1942, as amended.

5. Section 825.124 (a) and (b) are amended to read as follows:

§ 825.124 *Maximum rents*—(a) *Maximum rents in effect on June 30, 1947.* Except as otherwise provided in this section, the maximum rents for any room subject to §§ 825.121 to 825.132, shall be the maximum rents which were in effect on June 30, 1947, as established under the Emergency Price Control Act of 1942, as amended, and the applicable rent regulation issued thereunder, plus or minus adjustments under § 825.125.

(b) *Maximum rents in statutory lease cases.* (1) For controlled rooms concerning which a statutory lease is in effect the maximum rent, until such lease is terminated or expires, shall be the rent set forth in such lease.

(2) For controlled rooms concerning which a statutory lease has heretofore terminated or expired or hereafter terminates or expires, the maximum rent shall be the rent set forth in such lease, plus or minus adjustments under § 825.125: *Provided, however,* That if such controlled rooms are in a defense-rental area in which a general increase in maximum rents has been or is hereafter granted, the maximum rent shall be such lease rent plus or minus adjustments under § 825.125, or the maximum rent in the absence of a lease, whichever is higher.

Reporting requirements. A landlord shall file a report in the Area Rent Office on a form provided by the Expediter, of any termination of a statutory lease prior to the expiration date of the lease, unless such report was filed prior to April 1, 1949. Such report shall be filed within fifteen days after such termination or fifteen days after April 1, 1949, whichever is later.

For purposes of this paragraph (b), the term "statutory lease" means a lease as described in section 204 (b) (2) or 204 (b) (3) of the Housing and Rent Act of 1947, as amended, and § 825.121 (b) (2) (v), as they read prior to April 1, 1949.

6. In § 825.124, paragraph (h) is deleted and a new paragraph (h) is added to read as follows:

(h) *Recontrolled rooms in hotels.* In the case of those controlled rooms in hotels which were not included as controlled rooms on March 31, 1949, the maximum rent shall be the rent in effect for such accommodations on March 1, 1949.

7. A new unnumbered paragraph is added immediately prior to § 825.125 (a) to read as follows:

Any landlord who files a petition under this section for adjustment to increase the maximum rent otherwise allowable shall certify that he is maintaining all services required by this regulation and that he will continue to maintain such services so long as the adjustment in such maximum rent which may be granted continues in effect.

8. Section 825.129 is redesignated as § 825.129 (a).

9. Section 825.126 is redesignated as § 825.129 (b), and is amended to read as follows:

(b) Any person who rents or offers for rent, or acts as a broker or agent for the rental of, any controlled housing accommodations shall, as the Housing Expediter may from time to time require, (1) furnish information under oath or affirmation or otherwise, (2) make and keep records and other documents, (3) make reports, (4) permit inspection and

copying of records and other documents and (5) permit inspection of controlled housing accommodations.

10. A new § 825.126 is added to read as follows:

§ 825.126 *Removal of tenant*—(a) *Restrictions on removal of tenant.* So long as the tenant continues to pay the rent to which the landlord is entitled, no tenant shall be removed from any housing accommodations by action to evict or to recover possession, by exclusion from possession, or otherwise, nor shall any person attempt such removal or exclusion from possession, notwithstanding that such tenant has no lease or that his lease or other rental agreement has expired or otherwise terminated, and regardless of any contract, lease, agreement or obligation heretofore or hereafter entered into which provides for surrender of possession, or for entry of judgment upon the tenant's confession for breach of the covenants thereof, or which otherwise provides contrary hereto, except on one or more of the grounds specified in this paragraph (a), or unless the landlord has obtained a certificate in accordance with paragraph (c) of this section: *Provided, however,* That no provision of this section shall be construed to authorize the removal of a tenant unless such removal is authorized under local law.

(1) *Violating substantial obligation of tenancy.* The tenant is violating a substantial obligation of his tenancy, other than an obligation to pay rent or an obligation to surrender possession of the housing accommodations, and has continued or failed to cure such violation after a written notice by the landlord that the violation cease.

(2) *Nuisance or illegal or immoral use.* Under the local law, the tenant (i) is committing or permitting a nuisance in the housing accommodations or (ii) is using or permitting a use of such housing accommodations for an immoral or illegal purpose.

(3) *Tenant's refusal of access to landlord.* The tenant has unreasonably refused the landlord access to the housing accommodations for the purpose of inspection or of showing the accommodations to a prospective purchaser, mortgagee, or prospective mortgagee, or other person having a legitimate interest therein: *Provided, however,* That such refusal shall not be ground for removal or eviction if such inspection or showing of the accommodations is contrary to the provisions of the tenant's lease or other rental agreement.

(4) *Company housing.* The housing accommodations are part of a company housing development in which occupancy has customarily been limited to employees of the landlord, and the tenant is no longer his employee.

(b) *Notices required.* (1) No tenant shall be removed or evicted from housing accommodations by court process or otherwise and no action or proceeding shall be commenced for such purpose upon any of the grounds permitted in paragraph (a) of this section unless and until the landlord shall have given written notice to the Area Rent Office and to the tenant as provided in this paragraph (b) (1).

Every such notice to a tenant to vacate or surrender possession of housing accommodations shall state the ground under this section upon which the landlord relies for removal or eviction of a tenant, the facts necessary to establish the existence of such ground, and the date when the tenant is required to surrender possession. Where the ground for removal or eviction of a tenant is nonpayment of rent, such notice shall include a statement of the rent due and the rental period or periods for which such rent is due. A written copy of every notice required by this paragraph (b) (1) shall be filed with the Area Rent Office within 24 hours after such notice is given to the tenant.

Every such notice shall be given to the tenant at least ten days prior to the date specified for the surrender of possession and to the commencement of any action for removal or eviction, except where the ground specified in the notice for removal or eviction is non-payment of rent, in which case such notice shall be given at least three days prior to such date.

If judgment for possession is sought by virtue of a confession of judgment or by virtue of a warrant of attorney authorizing confession of such judgment against the tenant, the date of commencement of the action as referred to in this section shall be deemed to be the date of the filing in court of the first papers in the proceedings for the entry of such judgment.

(2) At the time of commencing any action to remove or evict a tenant, on any ground stated in paragraph (a) of this section the landlord shall give written notice thereof to the Area Rent Office, stating the title of the case, the number of the case where that is possible, the court in which it is filed, the name and address of the tenant, and the ground under said subsection on which removal or eviction is sought.

(c) *Eviction certificates.* No tenant shall be removed or evicted on grounds other than those stated in paragraph (a) of this section unless on petition of the landlord the Housing Expediter certifies that the landlord may pursue his remedies in accordance with the requirements of local law. The Expediter shall so certify if he finds that removals or evictions of the character proposed are not inconsistent with the purposes of the Act or this reguation and would not be likely to result in the circumvention or evasion thereof.

The certificate shall authorize the pursuit of local remedies at the expiration of three months after the date of the filing of the petition. In any case where the Expediter finds that by reason of exceptional circumstances extreme hardship would result to the landlord, he may waive all or part of the waiting period.

(d) *Change of intention.* Any certificate issued under paragraph (c) of this section shall not be used in connection with any action to remove or evict a tenant unless such removal or eviction is sought for the purpose specified in the certificate.

In the event that the landlord's intentions or circumstances so change that the premises, possession of which is sought, will not be used for the purpose specified in the certificate, the certificate shall thereupon be null and void. The landlord shall immediately notify the Area Rent Director in writing and surrender the certificate for cancellation.

(e) *Local law.* No provision of this section shall be construed to prohibit a landlord who has obtained a certificate under paragraph (c) of this section from serving, prior to the expiration of the waiting period specified in said certificate, such notice or notices as may be required by the local law, provided that such notice or notices do not demand surrender of possession until after expiration of said waiting period.

(f) *Exceptions.* The provisions of this section do not apply to:

(1) *Subtenants.* A subtenant or other person who occupies or occupied under a rental agreement with the tenant, where removal or eviction of the subtenant or other such occupant is sought by the landlord of the tenant, unless the rental agreement between the landlord and tenant contemplated the subletting by the tenant of the entire accommodations or substantially all of the individual units therein, or unless under the local law there is a tenancy relationship between the landlord and the subtenant or other such occupant.

(2) *Daily tenants.* A tenant occupying the housing accommodations on a daily basis, except that the provisions of this section do apply to any such tenant who has occupied the housing accommodations for a continuous period of thirty days or more.

(3) *Public housing.* Notwithstanding any other provisions of this section, the United States or any State or local public agency may maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action or proceeding is authorized by the statute or regulations under which such accommodations are administered.

(g) *Pending cases.* (1) In any case where a landlord has given a tenant a written notice, prior to April 1, 1949, in accordance with section 209 (c) of the Housing and Rent Act of 1947, as amended, as it read prior to April 1, 1949, or where no notice was required by that section of said Act and a court proceeding for removal or eviction is pending on April 1, 1949, the landlord need not comply with the notice requirements under paragraph (b) of this section provided that the ground for removal or eviction relied upon in such cases is a ground for removal or eviction under paragraph (a) of this section. If in any such case the ground for removal or eviction is not a ground for removal or eviction under paragraph (a) of this section and a certificate is applied for and issued in accordance with paragraph (c) of this section the Housing Expediter may reduce the waiting period, taking into consideration the time elapsed since notice was given.

(2) The provisions of this section shall not apply to any case in which judgment

was entered prior to April 1, 1949, by a court of competent jurisdiction for the eviction or removal of a tenant from housing accommodations.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, 62 Stat 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d))

This amendment shall become effective April 1, 1949.

Issued this 1st day of April 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2549; Filed, Apr. 1, 1949; 4:01 p. m.]

[Controlled Housing Rent Reg.,[1] Amdt. 78]

PART 825—RENT REGULATION UNDER THE HOUSING AND RENT ACT OF 1949

CONTROLLED HOUSING RENT REGULATION

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respects:

1. Schedule A, item 10a, is amended to read as follows:

(10a) [Revoked and decontrolled.]

This decontrols from §§ 825.1 to 825.12 the entire Troy, Alabama, Defense-Rental Area.

2. Schedule A, item 95a, is amended to describe the counties in the Defense-Rental Area as follows:

In De Kalb County, the Townships of Keyser and Union.

This decontrols from §§ 825.1 to 825.12 all of the Auburn, Indiana, Defense-Rental Area except the Townships of Keyser and Union.

3. Schedule A, item 106, is amended to describe the counties in the Defense-Rental Area as follows:

In Wabash County, the Townships of Chester and Noble, and in Huntington County, the Township of Huntington----------
Delaware, Grant, Howard and Madison------

This decontrols from §§ 825.1 to 825.12 all of Huntington County except the Township of Huntington, and all of Wabash County except the Townships of Chester and Noble, both counties in the Anderson, Indiana, Defense-Rental Area.

4. Schedule A, item 94b, is amended to describe the counties in the area as follows:

In Monroe County, the Townships of Bloomington and Perry.

This decontrols from §§ 825.1 to 825.12 all of the Bloomington, Indiana, Defense-Rental Area except the Townships of Bloomington and Perry.

5. Schedule A, item 97, is amended to describe the counties in the Defense-Rental Area as follows:

Bartholomew, Johnson, Morgan, and in Shelby County, the Township of Addison----------
In Lawrence County, the Townships of Shawswick and Marion----------
Jackson ----------

This decontrols from §§ 825.1 to 825.12 all of Lawrence County except the Townships of Shawswick and Marion, and all of Shelby County except the Township of Addison, both counties in the Columbus, Indiana, Defense-Rental Area.

6. Schedule A, item 188a, is amended to describe the counties in the Defense-Rental Area as follows:

Burlington County except the Townships of Tabernacle, Shamong, Woodland, and Washington, and that portion of Bass River Township which is outside New Gretna Borough; Camden; and Gloucester-
Salem----------
Cumberland----------

This decontrols from §§ 825.1 to 825.12 the Townships of Tabernacle, Shamong, Woodland, Washington and Bass River except New Gretna Borough all in the Southern New Jersey Defense-Rental Area.

7. Schedule A, item 299, is amended to describe the counties in the Defense-Rental Area as follows:

Potter County and that portion of the City of Amarillo in Randall County.

This decontrols from §§ 825.1 to 825.12 all of Randall County except that portion within the City of Amarillo in the Amarillo, Texas, Defense-Rental Area.

8. Schedule A, item 309, is amended to describe the counties in the Defense-Rental Area as follows:

Nueces except the Town of Port Aransas----
Bee and Kleberg----------

This decontrols from §§ 825.1 to 825.12 all of San Patricio County in the Corpus Christi, Texas, Defense-Rental Area.

9. Schedule A, item 316, is amended to describe the counties in the Defense-Rental Area as follows:

Tarrant.

This decontrols from §§ 825.1 to 825.12 all of the Ft. Worth, Texas, Defense-Rental Area except Tarrant County.

10. Schedule A, item 319a, is amended to describe the counties in the Defense-Rental Area as follows:

Harris and Liberty.

This decontrols from §§ 825.1 to 825.12 all of Chambers County in the Houston, Texas, Defense-Rental Area.

11. Schedule A, item 320, is amended to describe the counties in the Defense-Rental Area as follows:

Bell.

This decontrols from §§ 825.1 to 825.12 all of the Killeen-Temple, Texas, Defense-Rental Area except Bell County.

12. Schedule A, item 322b, is amended to describe the counties in the Defense-Rental Area as follows:

Panola.

This decontrols from §§ 825.1 to 825.12 all of the Eatex, Texas, Defense-Rental Area except Panola County.

13. Schedule A, items 324a, is amended to describe the counties in the Defense-Rental Area as follows:

Calhoun and Matagorda.

This decontrols from §§ 825.1 to 825.12 Jackson County in the Matagorda Bay, Texas, Defense-Rental Area.

14. Schedule A, item 328, is amended to describe the counties in the Defense-Rental Area as follows:

Atascosa, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson.

This decontrols from §§ 825.1 to 825.12 Bandera County in the San Antonio, Texas, Defense-Rental Area.

15. Schedule A, item 330, is amended to read as follows:

(330) [Revoked and decontrolled.]

This decontrols from §§ 825.1 to 825.12 the entire Texarkana, Texas, Defense-Rental Area, consisting of Bowie County, Texas and Miller County, Arkansas.

16. Schedule A, item 330a, is amended to read as follows:

(330a) [Revoked and decontrolled.]

This decontrols from §§ 825.1 to 825.12 the entire Tyler, Texas, Defense-Rental Area.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, by 62 Stat. 94 and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended by 62 Stat. 37, by 62 Stat. 94 and by Pub. Law 31, 81st Cong.; 50 U. S. C. 1894)

This amendment shall become effective April 1, 1949.

Issued this 1st day of April 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2562; Filed, Apr. 1, 1949; 5:08 p. m.]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg.,[1] Amdt. 74]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1949

RENT REGULATIONS FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

The Rent Regulations for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is hereby amended in the following respects:

1. Schedule A, item 10a, is amended to read as follows:

(10a) [Revoked and decontrolled.]

This decontrols from §§ 825.81 to 825.92 the entire Troy, Alabama, Defense-Rental Area.

2. Schedule A, item 95a, is amended to describe the counties in the Defense-Rental Area as follows:

In De Kalb County, the Townships of Keyser and Union.

This decontrols from §§ 825.81 to 825.92 all of the Auburn, Indiana, Defense-Rental Area except the Townships of Keyser and Union.

3. Schedule A, item 106, is amended to describe the counties in the Defense-Rental Area as follows:

[1] 13 F. R. 5706, 5788, 5877, 5937, 6246, 6283, 6411, 6556, 6881, 6910, 7299, 7671, 7801, 7862, 8217, 8327, 8386; 14 F. R. 17, 93, 143, 271, 337, 456, 627, 632, 695, 856, 918, 979, 1005, 1083, 1345, 1394.

[1] 13 F. R. 5750, 5789, 5875, 5937, 5938, 6247, 6283, 6411, 6556, 6882, 6911, 7299, 7672, 7801, 7862, 8218, 8328, 8388; 14 F. R. 18, 272, 337, 457, 627, 682, 695, 857, 918, 978, 1083, 1345.

In Wabash County, the Townships of Chester and Noble, and in Huntington County, the Township of Huntington
Delaware, Grant, Howard and Madison

This decontrols from §§ 825.81 to 825.92 all of Huntington County except the Township of Huntington, and all of Wabash County except the Townships of Chester and Noble, both counties in the Anderson, Indiana, Defense-Rental Area.

4. Schedule A, item 94b, is amended to describe the counties in the area as follows:

In Monroe County, the Townships of Bloomington and Perry.

This decontrols from §§ 825.81 to 825.92 all of the Bloomington, Indiana, Defense-Rental Area except the Townships of Bloomington and Perry.

5. Schedule A, item 97, is amended to describe the counties in the Defense-Rental Area as follows:

Bartholomew, Johnson, Morgan, and in Shelby County, the Township of Addison
In Lawrence County, the Townships of Shawswick and Marion
Jackson

This decontrols from §§ 825.81 to 825.92 all of Lawrence County except the Townships of Shawswick and Marion, and all of Shelby County except the Township of Addison, both counties in the Columbus, Indiana, Defense-Rental Area.

6. Schedule A, item 188a, is amended to describe the counties in the Defense-Rental Area as follows:

Burlington County except the Townships of Tabernacle, Shamong, Woodland, and Washington, and that portion of Bass River Township which is outside New Gretna Borough; Camden; and Gloucester
Salem
Cumberland

This decontrols from §§ 825.81 to 825.92 the Townships of Tabernacle, Shamong, Woodland, Washington and Bass River except New Gretna Borough all in the Southern New Jersey Defense-Rental Area.

7. Schedule A, item 299, is amended to describe the counties in the Defense-Rental area as follows:

Potter County and that portion of the City of Amarillo in Randall County.

This decontrols from §§ 825.81 to 825.92 all of Randall County except that portion within the City of Amarillo in the Amarillo, Texas, Defense-Rental Area.

8. Schedule A, item 309, is amended to describe the counties in the Defense-Rental Area as follows:

Nueces except the Town of Port Aransas
Bee and Kleberg

This decontrols from §§ 825.81 to 825.92 all of San Patricio County in the Corpus Christi, Texas, Defense-Rental Area.

9. Schedule A, item 316, is amended to describe the counties in the Defense-Rental Area as follows:

Tarrant.

This decontrols from §§ 825.81 to 825.92 all of the Ft. Worth, Texas, Defense-Rental Area except Tarrant County.

10. Schedule A, item 319a, is amended to describe the counties in the Defense-Rental Area as follows:

Harris and Liberty.

This decontrols from §§ 825.81 to 825.92 all of Chambers County in the Houston, Texas, Defense-Rental Area.

11. Schedule A, item 320, is amended to describe the counties in the Defense-Rental Area as follows:

Bell.

This decontrols from §§ 825.81 to 825.92 all of the Killeen-Temple, Texas, Defense-Rental Area except Bell County.

12. Schedule A, item 322b, is amended to describe the counties in the Defense-Rental Area as follows:

Panola.

This decontrols from §§ 825.81 to 825.92 all of the Eatex, Texas, Defense-Rental Area except Panola County.

13. Schedule A, item 324a, is amended to describe the counties in the Defense-Rental Area as follows:

Calhoun and Matagorda.

This decontrols from §§ 825.81 to 825.92 Jackson County in the Matagorda Bay, Texas, Defense-Rental Area.

14. Schedule A, item 328, is amended to describe the counties in the Defense-Rental Area as follows:

Atascosa, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson.

This decontrols from §§ 825.81 to 825.92 Bandera County in the San Antonio, Texas, Defense-Rental Area.

15. Schedule A, item 330, is amended to read as follows:

(330) [Revoked and decontrolled.]

This decontrols from §§ 825.81–825.92 the entire Texarkana, Texas, Defense-Rental Area, consisting of Bowie County, Texas, and Miller County, Arkansas.

16. Schedule A, item 330a, is amended to read as follows:

(330a) [Revoked and decontrolled.]

This decontrols from §§ 825.81 to 825.92 the entire Tyler, Texas, Defense-Rental Area.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, by 62 Stat. 94 and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended by 62 Stat. 37, by 62 Stat. 94 and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894)

This amendment shall become effective April 1, 1949.

Issued this 1st day of April 1949.

TIGHE E. WOODS,
Housing Expeditor.

[F. R. Doc. 49–2563; Filed, Apr. 1, 1949; 5:08 p. m.]

[Controlled Housing Rent Reg., Miami Defense-Rental Area,[1] Amdt. 15]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CONTROLLED HOUSING RENT REGULATION FOR MIAMI DEFENSE-RENTAL AREA

The Controlled Housing Rent Regulation for Miami Defense-Rental Area (§§ 825.41 to 825.52) is amended in the following respects:

1. The definition of "hotel" contained in § 825.41 is deleted.

2. In § 825.41 the definition of "date determining the maximum rent" is deleted.

3. Section 825.41 (b) (2) is amended to read as follows:

(2) *Decontrolled housing to which §§ 825.41 to 825.52 do not apply.* Sections 825.41 to 825.52 do not apply to the following:

(i) *Accommodations in hotels.* (*a*) In cities of less than 2,500,000 population according to the 1940 decennial census, those housing accommodations in any hotel which on June 30, 1947, were occupied by persons to whom were provided customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy services (not necessarily all the types of services named need be provided in all cases as long as enough are provided to constitute customary hotel services usually supplied in establishments commonly known as hotels in the community where they are located).

For the purposes of this paragraph (b) (2) (i) (*a*), the term "hotel" means any establishment which is commonly known as a hotel in the community in which it is located and which provides customary hotel services.

(*b*) In cities of 2,500,000 population or more according to the 1940 decennial census, (*1*) those housing accommodations which are located in hotels in which on March 1, 1949, 75 percent or more of the occupied housing accommodations were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more, or (*2*) those accommodations which are not located in hotels described in (*1*) but which on March 1, 1949, were rented on a daily basis to tenants who had not, on that date, continuously resided in the hotel for 90 days or more. For purposes of this paragraph (b) (2) (i) (*b*), the term "hotel" means any establishment which on June 30, 1947, was commonly known as a hotel in the community in which it is located and in which at least an appreciable number of its occupants were provided with customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy service.

(ii) *Motor courts.* Housing accommodations in establishments which were motor courts on June 30, 1947.

[1] 13 F. R. 5735, 6246, 8389; 14 F. R. 93, 145, 978.

(iii) *Trailer or trailer space.* Housing accommodations located in trailers and ground space rented for trailers, which on April 1, 1949 were used exclusively for transient occupancy, i. e., rented on a daily basis to tenants who had not continuously resided therein on and since March 1, 1949.

(iv) *Tourist homes.* Housing accommodations in any tourist home serving transient guests exclusively on June 30, 1947.

(v) *Accommodations created by new construction or change from non-housing use.* (*a*) Housing accommodations the construction of which was completed, or which were created by a change from a non-housing to a housing use, on or after February 1, 1947: *Provided, however,* That maximum rents established under the Veterans' Emergency Housing Act for priority constructed housing accommodations completed on or after February 1, 1947, shall continue in full force and effect, if such accommodations are being rented to veterans of World War II or their immediate families, who, on June 30, 1947, either (*1*) occupied such housing accommodations, or (*2*) had a right to occupy such housing accommodations at any time on or after July 1, 1947, under any agreement whether written or oral.

(*b*) Housing accommodations the construction of which was completed between February 1, 1945 and January 31, 1947, both dates inclusive, and which between the date of completion and June 30, 1947, both dates inclusive, at no time were rented as housing accommodations (other than to members of the immediate family of the landlord).

For purposes of this § 825.41 (b) (2) (v):

The time at which construction of housing accommodations shall be deemed to be "completed" shall be the date on which the dwelling is first suitable for occupancy and all utility and service connections have been made, except for the installation of such items and the completion of such decoration work, as, in accordance with the custom of the community, are left for installation by, or to the choice of, the purchaser or the tenant.

(vi) *Additional housing accommodations created by conversion.* (*a*) Additional housing accommodations created on or after February 1, 1947 by a conversion (i. e., a structural change in a residential unit or units involving substantial alterations and remodeling) which was created on or before March 31, 1949, but subject to the proviso clause set forth in § 825.41 (b) (2) (v) (*a*).

(*b*) Housing accommodations as to which a decontrol order has been entered by the Housing Expediter based on a conversion created on or after April 1, 1949, but subject to the proviso clause set forth in § 825.41 (b) (2) (v) (*a*). On petition by the owner such a decontrol order shall be entered by the Housing Expediter, if the following facts are established:

(*1*) There has been a structural change in a residential unit or units involving substantial alterations or remodeling; and

(*2*) Such change has resulted in additional, self-contained family units.

For purposes of this § 825.41 (b) (2) (vi):

The term "self-contained family unit" means a housing accommodation with private access, containing one or more rooms in addition to a kitchen (including kitchenette or pullman kitchen) and a private bathroom: *Provided, however,* That where a housing accommodation meets all these conditions except that it has no private bathroom or no bathroom facilities other than toilet, the Area Rent Director may waive such requirement if he finds that the accommodation is of the type recognized as a self-contained family unit in the neighborhood in which it is located.

(vii) *Non-housekeeping furnished accommodations.* Non-housekeeping furnished housing accommodations, located within a single dwelling unit not used as a rooming or boarding house, but only if no more than two paying tenants, not members of the landlord's immediate family live in such dwelling unit, and the remaining portion of such dwelling unit is occupied by the landlord or his immediate family. (See definition of rooming house in this section.)

4. Section 825.43 is amended to read as follows:

Every landlord shall, as a minimum, provide with housing accommodations the same living space and the same essential services, furniture, furnishings and equipment as were provided on the date determining the maximum rent, and as to other services, furniture, furnishings and equipment not substantially less than those provided on the date determining the maximum rent, plus or minus any increases or decreases made pursuant to § 825.45 (a) (3) or § 825.45 (b) or the comparable provisions of the rent regulations issued pursuant to the Emergency Price Control Act of 1942, as amended.

5. Sections 825.44 (a) and 825.44 (b) are amended to read as follows:

§ 825.44 *Maximum rents*—(a) *Maximum rents in effect on June 30, 1947.* Except as otherwise provided in this section, the maximum rent for any housing accommodations subject to §§ 825.41 to 825.52, shall be the maximum rent which was in effect on June 30, 1947, as established under the Emergency Price Control Act of 1942, as amended, and the applicable rent regulation issued thereunder, plus or minus adjustments under § 825.45.

(b) *Maximum rents in statutory lease cases.* (1) For housing accommodations concerning which a statutory lease is in effect the maximum rent, until such lease is terminated or expires, shall be the rent set forth in such lease.

(2) For housing accommodations concerning which a statutory lease has heretofore terminated or expired or hereafter terminates or expires, the maximum rent shall be the rent set forth in such lease, plus or minus adjustments under § 825.45: *Provided, however,* That if such housing accommodations are in a defense-rental area in which a general increase in maximum rents has been or is hereafter granted, the maximum rent shall be such lease rent plus or minus adjustments under § 825.45, or the maximum rent in the absence of a lease, whichever is higher.

Reporting requirements. A landlord shall file a report in the Area Rent Office, on a form provided by the Expediter, of any termination of a statutory lease prior to the expiration date of the lease, unless such report was filed prior to April 1, 1949. Such report shall be filed within fifteen days after such termination or fifteen days after April 1, 1949, whichever is later.

For purposes of this paragraph (b), the term "statutory lease" means a lease as described in section 204 (b) (2) or 204 (b) (3) of the Housing and Rent Act of 1947, as amended, and § 825.41 (b) (2) (v), as they read prior to April 1, 1949.

6. A new paragraph (f) is added to § 825.44 to read as follows:

(f) *Recontrolled housing accommodations in hotels.* In the case of those controlled housing accommodations in hotels which were not included as controlled housing accommodations on March 31, 1949, the maximum rent shall be the rent in effect for such accommodations on March 1, 1949.

7. A new unnumbered paragraph is added immediately prior to § 825.45 (a) to read as follows:

Any landlord who files a petition under this section for adjustment to increase the maximum rent otherwise allowable shall certify that he is maintaining all services required by this regulation and that he will continue to maintain such services so long as the adjustment in such maximum rent which may be granted continues in effect.

8. Section 825.49 is redesignated as § 825.49 (a).

9. Section 825.46 is redesignated as § 825.49 (b), and is amended to read as follows:

(b) Any person who rents or offers for rent, or acts as a broker or agent for the rental of, any controlled housing accommodations shall, as the Housing Expediter may from time to time require, (1) furnish information under oath or affirmation or otherwise, (2) make and keep records and other documents, (3) make reports, (4) permit inspection and copying of records and other documents and (5) permit inspection of controlled housing accommodations.

10. A new § 825.46 is added to read as follows:

§ 825.46 *Removal of tenant*—(a) *Restrictions on removal of tenant.* So long as the tenant continues to pay the rent to which the landlord is entitled, no tenant shall be removed from any housing accommodations by action to evict or to recover possession, by exclusion from possession, or otherwise, nor shall any person attempt such removal or exclusion from possession, notwithstanding that such tenant has no lease or that his lease or other rental agreement has expired or otherwise terminated, and regardless of any contract, lease, agree-

ment or obligation heretofore or hereafter entered into which provides for surrender of possession, or for entry of judgment upon the tenant's confession for breach of the covenants thereof, or which otherwise provides contrary hereto, except on one or more of the grounds specified in this paragraph (a), or unless the landlord has obtained a certificate in accordance with paragraph (c) of this section: *Provided, however,* That no provisions of this section shall be construed to authorize the removal of a tenant unless such removal is authorized under local law.

(1) *Violating substantial obligation of tenancy.* The tenant is violating a substantial obligation of his tenancy, other than an obligation to pay rent or an obligation to surrender possession of the housing accommodations, and has continued or failed to cure such violation after a written notice by the landlord that the violation cease.

(2) *Nuisance or illegal or immoral use.* Under the local law, the tenant (i) is committing or permitting a nuisance in the housing accommodations and such nuisance continues after written notice to the tenant that the same shall cease or (ii) is using or permitting a use of such housing accommodations for an immoral or illegal purpose.

(3) *Tenant's refusal of access to landlord.* The tenant has unreasonably refused the landlord access to the housing accommodations for the purpose of inspection or of showing the accommodations to a prospective purchaser, mortgagee, or prospective mortgagee, or other person having a legitimate interest therein: *Provided, however,* That such refusal shall not be ground for removal or eviction if such inspection or showing of the accommodations is contrary to the provisions of the tenant's lease or other rental agreement.

(4) *Accommodations entirely sublet.* The tenant's lease or other rental agreement has expired or otherwise terminated, and at the time of termination the occupants of the housing accommodations are subtenants or other persons who occupied under a rental agreement with the tenant, and no part of the accommodations is used by the tenant as his dwelling.

(5) *Landlord is a state or political subdivision thereof.* The housing accommodations have been acquired by a state or political subdivision thereof for the purpose of making a public improvement and are rented temporarily pending the construction of such improvement.

(6) *Company housing.* The housing accommodations are part of a company housing development in which occupancy has customarily been limited to employees of the landlord, and the tenant is no longer his employee.

(b) *Notices required.* (1) No tenant shall be removed or evicted from housing accommodations by court process or otherwise and no action or proceeding shall be commenced for such purpose upon any of the grounds permitted in paragraph (a) of this section unless and until the landlord shall have given written notice to the Area Rent Office and to the tenant as provided in this paragraph (b) (1).

Every such notice to a tenant to vacate or surrender possession of housing accommodations shall state the ground under this section upon which the landlord relies for removal or eviction of the tenant, the facts necessary to establish the existence of such ground, and the date when the tenant is required to surrender possession. Where the ground for removal or eviction of a tenant is nonpayment of rent such notice shall include a statement of the rent due and the rental period or periods for which such rent is due. A written copy of every notice required by this paragraph (b) (1) shall be filed with the Area Rent Office within 24 hours after such notice is given to the tenant.

Every such notice shall be given to the tenant at least the following period of time prior to the date specified therein for the surrender of possession and to the commencement of any action for removal or eviction:

(i) Where the ground specified in the notice for such removal or eviction is nonpayment of rent, not less than three days.

(ii) Where the notice specifies one or more of the grounds stated in paragraphs (a) (1) and (a) (2) of this section for such removal or eviction, not less than ten days.

(iii) Where the notice specifies the ground stated in paragraph (a) (3) of this section for such removal or eviction, not less than one month.

(iv) Where the notice specifies one or more of the grounds stated in paragraphs (a) (4), (a) (5) and (a) (6) of this section for such removal or eviction, not less than two months.

If judgment for possession is sought by virtue of a confession of judgment of by virtue of a warrant of attorney authorizing confession of such judgment against the tenant, the date of commencement of the action as referred to in this section shall be deemed to be the date of the filing in court of the first papers in the proceedings for the entry of such judgment.

(2) At the time of commencing any action to remove or evict a tenant, on any ground stated in paragraph (a) of this section the landlord shall give written notice thereof to the Area Rent Office, stating the title of the case, the number of the case where that is possible, the court in which it is filed, the name and address of the tenant, and the ground under said subsection on which removal or eviction is sought.

(c) *Eviction certificates; grounds for issuance.* No tenant shall be removed or evicted on grounds other than those stated in paragraph (a) of this section, unless on petition of the landlord the Housing Expediter certifies that the landlord may pursue his remedies in accordance with the requirements of local law. The certificate shall authorize the pursuit of local remedies at the expiration of the waiting period specified in paragraph (d) of this section. The Expediter shall so certify if he finds that removals or evictions of the character proposed are not inconsistent with the purposes of the act or this regulation and would not be likely to result in the circumvention or evasion thereof. The Expediter shall so find in the following cases:

(1) *Occupancy by owner.* Where the landlord, who is the owner of the housing accommodations, establishes that he seeks in good faith to recover possession thereof for his immediate and personal use and occupancy as housing accommodations, or for the immediate and personal use and occupancy as housing accommodations by a member or members of his immediate family (see definition of "immediate family" at the end of this subparagraph (1)): *Provided, however,* That:

(i) Where the housing accommodations are located in a structure or premises which contain more than two housing accommodations and the housing accommodations or structure or premises are owned by two or more persons not constituting a cooperative corporation or association (husband and wife as owners being considered one owner for this purpose), no certificate shall be issued under this paragraph (c) (1) for occupancy of more than one housing accommodation and then only if none of the co-owners is already in occupancy of any housing accommodation in such structure or premises;

(ii) In the case of housing accommodations in a structure or premises owned by a cooperative corporation or association, no certificate shall be issued by the Expediter to a purchaser of stock or other evidence of interest in such cooperative, who is entitled by reason of such ownership of stock or other evidence of interest to possession of such housing accommodations by virtue of a proprietary lease or otherwise, unless stock or other evidence of interest in the cooperative has been purchased by persons who are tenants in occupancy of at least 65 percent of the housing accommodations in the structure or premises and are entitled by reason of such ownership to proprietary leases of housing accommodations in the structure or premises;

(iii) Where the owner or owners purchased and thereby acquired title to the housing accommodations on or after April 1, 1949, no certificate shall be issued under this paragraph (c) (1) unless such owner or owners made a payment or payments of principal totaling at least 10 percent of the purchase price, but this requirement shall not apply where the purchaser is a veteran of World War II, who, by virtue of his status as such, obtained a loan for use in purchasing such housing accommodations which was guaranteed in whole or in part by the Administrator of Veterans Affairs.

For purposes of this paragraph (c) (1), the term "immediate family" includes only a son, son-in-law, daughter, daughter-in-law, father, father-in-law, mother, mother-in-law, stepchild and adopted child.

(2) *Occupancy by contract purchaser.* Where it is established that a person has an enforceable contract to purchase the housing accommodations, and that he seeks in good faith to recover possession thereof for his immediate and personal use and occupancy as housing accommodations, or for the immediate and personal use and occupancy as housing accommodations by a member or mem-

bers of his immediate family (as defined in subparagraph (1) of this paragraph: *Provided, however,* That:

(i) Where such purchase contract does not give the contract purchaser the right of immediate possession to the housing accommodations, no certificate shall be issued until after title has been transferred to the contract purchaser; and

(ii) It is established that such contract purchaser, if title were transferred, would be entitled to a certificate under subparagraph (1) of this paragraph.

(3) *Alterations or remodeling.* Where a landlord establishes that he seeks in good faith to recover possession for the immediate purpose of substantially altering or remodeling the housing accommodations, for continued use as housing accommodations, in a manner which cannot practicably be done with the tenant in possession, or for the immediate purpose of demolishing them, *Provided,* That the landlord has obtained such approval for the proposed alterations or remodeling or demolition as may be required by federal, state and local law.

(4) *Landlord is tax-exempt organization.* Where the landlord establishes that it is an organization exempt from taxation under section 101 (6) of the Internal Revenue Code, and that it seeks in good faith to recover possession of the housing accommodations for the immediate and personal use and occupancy as housing accommodations by members of its staff.

(5) *Withdrawal from rental market.* Where the landlord establishes that he seeks in good faith to recover possession of the housing accommodations for the immediate purpose of (i) making a permanent conversion to commercial use by substantially altering or remodeling them or (ii) personally making a permanent use of them for non-housing purposes or (iii) permanently withdrawing them from both the housing and non-housing rental markets without any intent to sell the housing accommodations.

(d) *Eviction certificates; waiting period.* Certificates issued under paragraph (c) of this section shall authorize the pursuit of local remedies at the expiration of three months from the date of the filing of the petition: *Provided, however,* That:

(1) In cases under paragraph (c) (5) of this section the waiting period shall be six months;

(2) In cases under paragraph (c) (2) (*i*) of this section the waiting period shall extend at least until two months from the date the certificate is issued;

(3) In any case where the Expediter finds that by reason of exceptional circumstances extreme hardship would result to the landlord, he may waive all or part of the waiting period.

(e) *Change of intention.* Any certificate issued under paragraph (c) of this section shall not be used in connection with any action to remove or evict a tenant unless such removal or eviction is sought for the purpose specified in the certificate.

In the event that the landlord's intentions or circumstances so change that the premises, possession of which is sought, will not be used for the purpose specified in the certificate, the certificate shall thereupon be null and void. The landlord shall immediately notify the Area Rent Director in writing and surrender the certificate for cancellation.

(f) *Local law.* No provision of this section shall be construed to prohibit a landlord who has obtained a certificate under paragraph (c) of this section from serving, prior to the expiration of the waiting period, specified in said certificate, such notice or notices as may be required by the local law, provided that such notice or notices do not demand surrender of possession until after expiration of said waiting period.

(g) *Exceptions.* The provisions of this section do not apply to:

(1) *Subtenants.* A subtenant or other person who occupies or occupied under a rental agreement with the tenant, where removal or eviction of the subtenant or other such occupant is sought by the landlord of the tenant, unless the rental agreement between the landlord and tenant contemplated the subletting by the tenant of the entire accommodations or substantially all of the individual units therein, or unless under the local law there is a tenancy relationship between the landlord and the subtenant or other such occupant.

(2) *Public housing.* Notwithstanding any other provisions of this section, the United States or any State or local public agency may maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action or proceeding is authorized by the statute or regulations under which such accommodations are administered.

(h) *Pending cases.* (1) In any case where a landlord has given a tenant a written notice, prior to April 1, 1949, in accordance with section 209 (c) of the Housing and Rent Act of 1947, as amended, as it read prior to April 1, 1949, or where no notice was required by that section of said act and a court proceeding for removal or eviction is pending on April 1, 1949, the landlord need not comply with the notice requirements under paragraph (b) of this section provided that the ground for removal or eviction relied upon in such cases is a ground for removal or eviction under paragraph (a) of this section. If in any such case the ground for removal or eviction is not a ground for removal or eviction under paragraph (a) of this section and a certificate is applied for and issued in accordance with paragraph (c) of this section the Housing Expediter may reduce the waiting period taking into consideration the time elapsed since notice was given.

(2) The provisions of this section shall not apply to any case in which judgment was entered prior to April 1, 1949, by a court of competent jurisdiction for the eviction or removal of a tenant from housing accommodations.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, by 62 Stat. 94 and by Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d))

This amendment shall become effective April 1, 1949.

Issued this 1st day of April 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-2564; Filed, Apr. 1, 1949; 5:09 p. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter IV—Secret Service, Department of the Treasury

PART 403—AUTHORIZATION OF ALL BANKS, UNITED STATES POST OFFICES, AND DISBURSING OFFICERS OF THE UNITED STATES AND THEIR AGENTS TO DELIVER TO THE TREASURY DEPARTMENT COUNTERFEIT OBLIGATIONS AND OTHER SECURITIES AND COINS OF THE UNITED STATES OR OF ANY FOREIGN GOVERNMENT

MISCELLANEOUS AMENDMENTS

1. The headnote of Part 403 is amended to read as set forth above.

2. Section 403.1 is amended to read as follows:

§ 403.1 *Delivery of counterfeit obligations and other securities and coins authorized.* Authority is hereby given to all banks and banking institutions of any nature whatsoever organized under general or special federal or state statutes, to all United States Post Offices, and to all disbursing officers of the United States and their agents, to take possession of and deliver to the Treasury Department through the Secret Service Division all counterfeit obligations and other securities and coins of the United States or of any foreign government which shall be presented at their places of business.

(Sec. 492, Pub. Law 772, 80th Cong.; 18 18 U. S. C. 492)

[SEAL] E. H. FOLEY, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 49-2501; Filed, Apr. 4, 1949; 8:48 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

ATLANTIC OCEAN AND INDIAN RIVER, FLA.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), § 204.82 governing the use of a naval and military training area in the Atlantic Ocean and Indian River, Florida, north of Fort Pierce Inlet, is hereby revoked:

§ 204.82 *Atlantic Ocean and Indian River, Fla., north of Fort Pierce Inlet; naval and military training area.* [Revoked.]

[Regs. Mar. 17, 1949, CE800.2121 (Atlantic Ocean, Fla.)—ENGWR] (40 Stat. 266; 33 U. S. C. 1)

[SEAL] EDWARD F. WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 49-2499; Filed, Apr. 4, 1949; 8:48 a. m.]

TITLE 34—NATIONAL MILITARY ESTABLISHMENT

Chapter VII—Department of the Air Force

Subchapter F—Organized Reserves

PART 861—OFFICERS' RESERVE CORPS

REDESIGNATION AND REVISION OF REGULATIONS

Regulations contained in §§ 861.9 and 861.10 (13 F. R. 8752) are hereby redesignated §§ 861.12 and 861.13.

Regulations contained in §§ 861.1 to 861.8 inclusive (13 F. R. 8752) are hereby revised to read as follows:

Sec.

AUTHORITY: §§ 861.1 to 861.11 issued under sec. 37, 39 Stat. 189, sec. 32, 41 Stat. 775, sec. 2, 42 Stat. 1033, sec. 3, 48 Stat. 154, 48 Stat. 939, sec. 1, 49 Stat. 1028, sec. 5, 53 Stat. 557, secs. 207 (f), 208 (e) Pub. Law 253, 80th Cong., 61 Stat. 502, 503, Pub. Law 460, 80th Cong., 62 Stat. 89; 10 U. S. C. 351, 352, 353, 360, 369, 369a, 5 U. S. C. Sup. 626, 626c; Transfer Order 10, April 27, 1948, 13 F. R. 2428.

DERIVATION: AFR 45–17, March 7, 1949; AFR 45–5, March 16, 1949.

§ 861.1 *Purpose.* The regulations in this part state the composition of the Air Force Reserve and outline the policies, standards, and procedures for the maintenance of proficiency and the promotion of officers therein below the grade of brigadier general.

§ 861.2 *Delegation of authority.* The Commanding General, Continental Air Command, is hereby delegated the authority to prosecute final action in the administration of the Air Force Reserve involving the following functions:

(a) Process and accept applications for membership in the Air Force Reserve.

(b) Appoint or enlist in the Air Force Reserve to include issuance of Air Force Reserve commissions for all grades except general officer.

(c) Process, select, and assign personnel for recall to active duty.

(d) Process, select, and assign personnel for mobilization assignments.

(e) Determine eligibility for promotion and issue promotion letters for all grades except general officer.

(f) Remove or reduce personnel in Reserve status for cause.

(g) Have custody of and be responsible for the maintenance and administration of all individual personnel records of Air Force Reserve personnel except those on extended active duty. This function includes the related services which will be furnished to public and private agencies and individuals from these records.

(h) Determine eligibility and compute compensation due under current retirement laws.

(i) Transfer Air Force Reserve personnel to and from the Air Force.

(j) Maintain and publish such statistical and personal information as may be required.

(k) Correspond directly with individuals and with civilian, State, and Federal agencies on Air Force Reserve personnel affairs.

(l) Allocate within the fund allocations made to Continental Air Command by Headquarters United States Air Force pay for active and inactive duty training of qualified Air Force Reserve personnel not assigned to other major air commands.

§ 861.3 *Composition of the Air Force Reserve.* The Air Force Reserve consists of the Organized Air Reserve, the Volunteer Air Reserve, the Inactive Air Reserve, and Honorary Air Reserve. The Organized Air Reserve and the Volunteer Air Reserve constitute the active components of the Air Force Reserve. The inactive Air Reserve and the Honorary Air Reserve constitute the inactive portion of the Air Force Reserve.

(a) The Organized Air Reserve is composed of all personnel of the Air Force Reserve who are physically and professionally qualified for active duty, who fulfill the age-in-grade requirements, and who are required for the Corollary, Air Force Reserve Training Center, and Mobilization Assignment Programs of the Air Force Reserve Program.

(1) Personnel of the Organized Air Reserve may earn points for promotion, may be promoted when eligible, and may receive inactive duty training pay.

(2) In the event an officer of the Organized Air Reserve does not maintain the required standards, he will be transferred to the Volunteer Air Reserve, the Inactive Air Reserve, or the Honorary Air Reserve as the case may require, pursuant to the provisions of § 861.5.

(b) The Volunteer Air Reserve consists of personnel of the Air Force Reserve who are physically and professionally qualified for active duty, but for whom no position vacancy exists in the Organized Air Reserve, or who, for personal reasons, do not participate in the Air Force Reserve training program to the extent required for retention in the Organized Air Reserve.

(1) Personnel of the Volunteer Air Reserve may earn points for promotion and may be promoted when eligible.

(2) Qualified personnel in the Volunteer Air Reserve may, providing a vacancy exists, be transferred to the Organized Air Reserve as provided for in § 861.5 (c).

(3) In the event an officer does not maintain the required standards, he will be transferred to either the Inactive Air Reserve or the Honorary Air Reserve, as the case may be, pursuant to the provisions of § 861.5.

(4) Waivers will be granted for those officers residing in foreign countries who, due to their residence outside the Zone of Interior, are unable to accrue sufficient points for retention in the Volunteer Air Reserve. Upon application, these waivers may be granted by the major air command to which the individual is assigned. (See § 861.5 (a) (4).)

(c) The Inactive Air Reserve consists of those officers who, unable or unwilling to participate in the required activities of the Organized Air Reserve or Volunteer Air Reserve, are transferred thereto in accordance with § 861.5 (a), or who are disqualified for such participation because of a lack of professional qualifications.

(1) Commissions of personnel referred to in this paragraph who do not transfer to the Volunteer Air Reserve or request transfer to the Honorary Air Reserve within a period of five years, will be terminated.

(2) Waivers will be granted for those officers residing in foreign countries who, due to their residence outside the Zone of Interior, are unable to qualify for the Volunteer Air Reserve. Upon application, these waivers may be granted by the major air command to which the individual is assigned. (See § 861.5 (a) (4).)

(3) Officers in the Inactive Air Reserve are not eligible to accrue points, receive inactive duty training pay, nor are they eligible for promotion.

(4) Officers in the Inactive Air Reserve may, if qualified, be transferred to the Volunteer Air Reserve in accordance with § 861.5 (d). In the event an officer is transferred to the Volunteer Air Reserve and fails to maintain the required standards he will be transferred to the Inactive Air Reserve, and no further transfer to the Volunteer Air Reserve will be authorized.

(d) The Honorary Air Reserve consists of Air Force Reserve personnel whose service has been honorable and who have, prior to reaching the statutory age for retirement, completed 20 years of satisfactory Federal service on active or inactive status or combination thereof in any component or components of the armed services, or who have reached the statutory age for retirement, and who have applied for and received transfer thereto.

(1) Officers of the Honorary Air Reserve are not eligible for promotion, inactive duty training, or accrual of points.

(2) Officers of the Honorary Air Reserve are subject to recall to active duty.

(e) Personnel of the Air Force Reserve will be placed on the Honorary Air Force Retired List who have become permanently physically disqualified for military service not as a result of misconduct or undesirable habits over which they have control.

§ 861.4 *Maintenance of proficiency and retention of assignment.* (a) Maintenance of proficiency: Professional capability of officers of the Air Force Reserve will be maintained by:

(1) Extended active duty.

(2) Participation in scheduled assemblies or periods of instructions for training.

(3) Attendance at service schools.

(4) Successful completion of Air Force extension courses.

(5) Participation in field training exercises or tours of active duty for training.

(6) Active participation in military training or duty to include flying, ad-

ministrative duties, duties as members of boards, or participation in other military training or duties.

(b) For retention of assignment to the Organized Air Reserve, individuals must:

(1) Be physically qualified for active duty.

(2) Be professionally qualified.

(3) Be within the maximum age-in-grade limits. (See § 861.9.)

(4) Maintain their proficiency as evidenced by earning an average of at least 35 points annually during any three-year period. Accordingly, any officer of the Organized Air Reserve who, in any period of any three consecutive years, fails to earn a total of at least 105 points will be considered to have not properly maintained his proficiency. Points will be computed annually, on the anniversary of assignment, by the major air command having jurisdiction.

(c) For retention in the Volunteer Air Reserve, an individual must:

(1) Be physically qualified, or physically qualified with waiver.

(2) Be professionally qualified.

(3) Maintain his proficiency as evidenced by earning an average of at least 15 points annually during any three-year period. Accordingly, any officer of the Volunteer Air Reserve, who, in any period of any three consecutive years, fails to earn a total of at least 45 points will be considered to have not properly maintained his proficiency. Points will be computed annually on the anniversary of assignment by the major air command having jurisdiction.

(4) Reservists whose civilian occupation is directly allied to the same career field as his Military Occupational Specialty may be excused, by the Chief of Staff, United States Air Force, from the requirement of earning 15 points per year. Notice of all such exceptions will be transmitted to the appropriate numbered air force.

(d) There are no minimum requirements for retention in the Inactive Air Reserve or Honorary Air Reserve.

§ 861.5 *Transfers.* (a) From the Organized or Volunteer Air Reserve to the Volunteer, Inactive, or Honorary Air Reserve:

(1) An individual may request relief from the Organized Air Reserve or Volunteer Air Reserve and be assigned to, as the case may be, the Volunteer Air Reserve, the Inactive Air Reserve, or, if qualified, to the Honorary Air Reserve.

(2) An individual who fails to maintain the required standards and points (§ 861.4) for retention in either the Organized Air Reserve or the Volunteer Air Reserve, will be notified in writing of his deficiency by, or through, his immediate commanding officer. If the individual so notified fails to request transfer within 30 days, his immediate commanding officer will initiate a recommendation to the major air command concerned for transfer of the individual to the Inactive Air Reserve. Individuals will not be eligible for reassignment to the Organized Air Reserve or Volunteer Air Reserve, as the case may be, for a period of one year from the date of transfer therefrom.

(3) Individual requests for transfer under the provisions of this section will be forwarded through the individual's immediate commanding officer to the major air command concerned.

(4) Transfers, except to the Honorary Air Reserve, will be accomplished by issuance of appropriate orders by the commanding generals, Continental Air Command, or appropriate numbered air force.

(5) Requests for transfer to the Honorary Air Reserve will be forwarded through channels to Chief of Staff, United States Air Force, for appropriate action.

(b) From the Inactive Air Reserve to the Honorary Air Reserve:

(1) Officers of the Inactive Air Reserve who are qualified may, at any time, request transfer to the Honorary Air Reserve.

(2) Individuals in the Inactive Air Reserve will be notified in writing, by the major air command having administrative control, prior to termination of their commission pursuant to § 861.3 (c) (1) and will be offered, if eligible, an opportunity to transfer to the Honorary Air Reserve. In the event an individual so notified fails to request transfer within 30 days, the major air command concerned will initiate a request to the Chief of Staff, United States Air Force, for termination of the individual's commission, stating the reasons therefor.

(c) Transfer from the Volunteer Air Reserve to the Organized Air Reserve:

(1) An individual in the Volunteer Air Reserve will be eligible for transfer to the Organized Air Reserve if he has maintained the required standards for the Volunteer Air Reserve. (§ 861.4 (c).)

(2) For assignment purposes, when a position vacancy occurs within an Air Force Reserve Table of Organization and Equipment or Table of Distribution unit, or in a mobilization assignment, all qualified officers of that grade in the Volunteer Air Reserve who are available locally, who have requested transfer, and who are qualified to fill the vacancy, will be considered.

(3) Individuals desiring consideration for such transfer must apply in writing to the major air command concerned.

(4) When a vacancy occurs in the Organized Air Reserve, the major air command to which the position is assigned will select the best qualified officer of the proper rank who has applied for such transfer. If the individual selected is assigned to that command, the command of assignment will issue the appropriate orders. If the individual is assigned to another major air command, that command will request issuance of orders from the major air command to which the individual is then assigned. Major air commands will insure that an individual so selected will not be precluded from participation in the required activities of the Organized Air Reserve by virtue of his residence.

(d) From the Inactive Air Reserve to the Volunteer Air Reserve:

(1) Individuals in the Inactive Air Reserve may be transferred to the Volunteer Air Reserve upon application in writing to the major air command concerned. The major air command will issue the appropriate order effecting such transfer. The Chief of Staff, United States Air Force, will be notified of such transfer.

(2) Individuals in the Inactive Air Reserve are not eligible for transfer to the Organized Air Reserve.

(e) Transfers from the Honorary Air Reserve are not authorized.

§ 861.6 *Appointment in the Air Force Reserve of Ex-Air National Guard Officers.* (a) Upon termination of Air National Guard status, officers may, at their own request, be commissioned in the Air Force Reserve and may be assigned, if a vacancy exists, to the Organized Reserve, Volunteer Reserve, or Honorary Air Reserve in any grade for which qualified.

(b) An officer of the Air National Guard whose appointment is withdrawn because of failure to maintain the standards established for retention of appointment in the Air National Guard may apply for a commission in the Air Force Reserve in any grade in which qualified and, if so commissioned, will be assigned to the Volunteer Air Reserve, Inactive Air Reserve, or Honorary Air Reserve as appropriate. The individual who has been assigned to the Volunteer Air Reserve will not be eligible for transfer to the Organized Air Reserve for a period of one year. Officers of the Air National Guard whose appointment has been withdrawn for dishonorable reasons or for cause, are not eligible for appointment in the Air Force Reserve.

§ 861.7 *Maintenance of records.* Field personnel records and field 201 files for Reservists not on extended active duty will be maintained at the headquarters of assignment. The master personnel record and 201 file for Reservists not on extended active duty will be maintained, without exception, at the headquarters of the numbered air force having jurisdiction over the area in which the officer has designated as his permanent residence.

§ 861.8 *Promotion* — (a) *Eligibility.* The following individuals are eligible for promotion under the provisions of the regulations in this part:

(1) Air Force Reserve officers not on extended active duty who are members of the Organized Air Reserve or Volunteer Air Reserve and who meet the required standards as established herein.

(2) Air Force Reserve officers on extended active duty as provided herein.

(b) *Basis of promotion.* (1) Grade authorizations within the Air Force Reserve are based on the procurement objective for mobilization as announced from time to time by the Department of the Air Force and are applicable only to the Organized Air Reserve. Promotions of Air Force Reserve officers in the Organized Air Reserve will be made to fill available positions within that authorization.

(2) Promotion of officers assigned to the Volunteer Air Reserve will be made without reference to grade structure or vacancies except that the ratio of officers in grades above captain to those below that grade will not exceed the ratio of authorized allocations and positions above the grade of captain in the Organized Air Reserve to those below that grade in the Organized Air Reserve.

(c) *Authority to promote.* Promotion in the Air Force Reserve will be by direction of the President and will be announced in the name of the Chief of Staff, United States Air Force, by the commanding general of the appropriate numbered air force.

(d) *Requirements for promotion.* (1) Officers of the Air Force Reserve may be promoted to the next higher grade (not above the grade of colonel) when the requirements of this part are met. No promotions to colonel for women in the Air Force are authorized except that a director of the Women in the Air Force, if qualified, may be appointed in the Air Force Reserve in the grade of colonel upon relief from active duty, if not holding a Regular Air Force appointment or retired as a Regular Air Force officer.

(2) Promotions of officers assigned to the Organized Air Reserve will be made to fill existing vacancies in Table of Organization and Equipment and Table of Distribution units and to fill existing vacancies occurring within the authorized allocations for Organized Air Reserve officers not assigned to such units as issued from time to time in appropriate Air Force instructions to various commands exercising jurisdiction over members of the Air Force Reserve.

(3) No officer assigned to the Organized Air Reserve will be recommended for promotion unless a position vacancy exists within the command having assignment authority.

(4) A position vacancy will not be required for promotion from second lieutenant to first lieutenant.

(e) *Promotion procedure.* For Air Force Reserve officers, promotions will be accomplished by selective procedures to secure the best qualified among those officers available to fill these vacancies. These procedures will be as follows:

(1) The major air command concerned will appoint or convene a sufficient number of boards of officers to be known as Air Force Reserve Selection Boards, which will convene at such time and in such locations as may be required. The purpose of these boards is to select from a list the best qualified officers for promotion in the Air Force Reserve to fill authorized vacancies as determined by the appropriate major air command and as forwarded to each board. The appointing and convening authority may be delegated down to, but not lower than, a command normally commanded by a general officer.

(2) These boards will be composed of an uneven number of officers, not less than three, senior to the individuals to be considered for promotion. Officers of any component on extended active duty and Air Force Reserve officers not on extended active duty are eligible for membership on these boards. At least one member will be a Reserve officer and the entire board may be composed of Reserve officers. At least one officer will be a rated officer for boards considering rated officers for promotion. Prior consent of Reserve officers not on extended active duty must be obtained by the convening authority. Reserve officers will not be ordered to active duty for this purpose.

(3) Individuals will be recommended for promotion by their immediate commanding officers, through channels, to the major air command concerned. For this purpose, the commanding general of the Air Force command which is the repository of the individual's basic personnel records will be considered the immediate commanding officer of the Air Force Reserve officers assigned to the Volunteer Air Reserve. Major air commands will refer all such recommendations to their Air Force Reserve Selection Boards. These boards will consider officers in order of seniority and will take into full consideration the general and professional qualifications of the officers concerned in selecting the best qualified.

(f) *Promotion of Air Force Reserve officers who are serving on extended active duty in the Air Force.* (1) Officers of the Air Force Reserve on extended active duty in the Air Force will be eligible for promotion to the next higher grade above that in which currently serving (not above colonel) on extended active duty. Promotions under these provisions while on extended active duty, will not effect any change of current grade or status in which an individual is serving in the Air Force.

(2) Reserve officers on extended active duty who have completed at least one year in the current period of extended active duty, whose manner of performance rating is acceptable, and who have fulfilled the minimum periods of service in grade as prescribed in paragraph (g) (6) of this section will be considered eligible for promotion to the next higher grade above that grade in which he currently is serving. Promotion under the provisions of this paragraph will not be charged against the authorization established for the Organized Air Reserve.

(3) Airmen of the Air Force who hold a commission in the Air Force Reserve, will, after three years of satisfactory service in such status, be considered to have earned, for purposes of maintenance of proficiency and promotion, one-half the number of points required for promotion to the next higher grade than that held in the Air Force Reserve. Such points will be in addition to those that may be gained under § 861.10 (b). Promotion of airmen in their Air Reserve Officer rank will be in accordance with the provisions of this part and will be the responsibility of the Regular Air Force unit or installation to which assigned. Only one such promotion, in accordance with the provisions of this paragraph, may be made.

(4) The immediate commanding officer of an Air Force Reserve officer on extended active duty may, at any time after the officer has fulfilled the minimum requirements, submit through channels to the Chief of Staff, United States Air Force, a recommendation for promotion. The recommendation will include an evaluation of all pertinent facts such as current Air Force of the United States grade, highest grade attained in the Army of the United States and Air Force of the United States, and duties of various past and present positions.

(g) *Points required for promotions.* (1) For promotion to first lieutenant, 70 points while in the grade of second lieutenant.

(2) For promotion to captain, 105 points while in the grade of first lieutenant.

(3) For promotion to major, 175 points while in the grade of captain.

(4) For promotion to lieutenant colonel, 105 points while in the grade of major.

(5) For promotion to colonel, 140 points while in the grade of lieutenant colonel.

(6) The minimum periods of service-in-grade for promotion are as follows:

	Years
Second lieutenant to first lieutenant	2
First lieutenant to captain	3
Captain to major	5
Major to lieutenant colonel	3
Lieutenant colonel to colonel	4

(7) Points or credits earned by an individual prior to issuance of the regulations in this part will be accredited by competent authority for the purpose of this directive, provided they are converted to conform to the system of points established in § 861.10 (b).

(8) Officers who have served time-in-grade on active duty since September 16, 1940, will be awarded one point for each day served on active duty in the grade held immediately preceding relief from active duty.

(9) Gratuitous points granted under Public Law 810, 80th Congress (62 Stat. 1081), will not be counted for the purpose of the regulations in this part.

(h) *Date of rank.* For purposes of determining seniority, the date of rank of an officer will be computed as follows:

(1) In the event an officer has no prior service-in-grade to which appointed, in a higher grade, or in an equivalent grade in another branch of the United States Armed Forces, his date of rank will be the date on which he accepted the appointment.

(2) If an officer has prior to his current appointment, completed active commissioned service in that grade, in a higher grade, or in an equivalent grade in another arm or service, his date of rank will precede that on which he is appointed by a period equal to the total length of service previously completed in that grade, a higher grade, or an equivalent grade in another branch of the United States Armed Forces.

§ 861.9 *Age-in-grade requirements for the Organized Reserve.* (a) The maximum age-in-grade for officers of the Organized Reserve is as follows:

	Lieutenant	Captain	Major	Lieutenant colonel	Colonel
Effective Jan. 1, 1951, for rated personnel assigned to tactical flying units and tactical headquarters below wing level	32	37	42	45	49
Interim period for above	36	41	44	47	49
Other officers assigned to Table of Organization and Equipment units and all others in the Organized Air Reserve	36	42	48	55	60

(b) There are no age-in-grade requirements for personnel of the Volunteer Air Reserve excepting the maximum age of 60.

(c) An officer who has reached the maximum age-in-grade for tactical flying units and headquarters below wing level may be given an assignment to a command or staff position within the available vacancies in other type units or headquarters, or may be given an appropriate mobilization assignment.

(d) Waivers on the maximum age-in-grade provisions, effective for not more than one year or until an officer is qualified and is considered for promotion by a board, whichever shall come first, may be granted by the major air command concerned upon application thereto in the following cases:

(1) Individuals of the Organized Air Reserve who reach the maximum age-in-grade for the grade held and who are qualified for promotion but who, due to lack of position vacancy, have not been considered for promotion by a board, and

(2) Officers who, upon attaining the maximum age-in-grade, require less than one year in grade to complete the minimum service in grade provisions.

§ 861.10 *Active and inactive duty points*—(a) *Definitions.* The following definitions are applicable in the interpretation of the table of active and inactive duty points as set forth in paragraph (b) of this section:

(1) *Training period.* A duly authorized period of instruction performed by an individual with a mobilization assignment. Such training period shall be of at least two hours in duration and normally will be four hours in duration.

(2) *Unit training assembly.* A duly authorized and scheduled period of instruction conducted by United States Air Force Reserve or Air National Guard Table of Organization and Equipment or Table of Distribution units. Such unit training assemblies shall be of at least two hours in duration and normally will be four hours in duration.

(3) *Period of equivalent training or instruction.* Attendance at, or participation in, any one of the following activities for a continuous period of not less than two hours and normally of four hours:

(i) Supervised training on an inactive duty status with units or agencies of the regular military establishment, when such training is specifically authorized by competent authority and when the character of the training is such as to result in increase in the military proficiency of the individual or individuals concerned, and when satisfactory participation is certified by the commanding officer of the regular unit or agency concerned.

(ii) Training on inactive duty status with units of the Army, Navy, Marine Corps, or Coast Guard Reserve under the conditions specified in subdivision (i) of this subparagraph.

(iii) Flight training performed by rated personnel, when such flight training is pursuant to completion of approved and published minimum maintenance of proficiency requirements for the reserve forces category to which an individual is assigned, provided that such training is not conducted as part of any other point gaining activity specified herein.

(iv) Attendance at training assemblies of military personnel, other than unit training assemblies, when such training assemblies are pursuant to an approved course of training or are specifically authorized by competent authority.

(4) *Period of equivalent duty or appropriate duties.* Accomplishment of any one of the following duties for a continuous period of not less than two hours and normally of four hours.

(i) Duties performed under the jurisdiction of the Office of Selective Service Records when such duty is approved by competent authority, and it is certified by the Director of the Office of Selective Service Records or by his proper authorized military representative that the performance of such duty was satisfactory.

(ii) Duty relating to procurement planning and industrial mobilization when certified as satisfactorily performed by the commander of the appropriate major air command, Chief of Air Staff, Joint Staff, or National Military Establishment agency, or the Chief of Supply Arm or Service, under whose jurisdiction the work is performed.

(iii) Recruiting duty when such activity is authorized by competent military authority and participation is certified as satisfactory by an authorized military representative of the recruiting service.

(iv) Duty in connection with the planning, supervision of training, administration and supply of the reserve forces when such duty is authorized by competent authority and satisfactory accomplishment thereof is certified by the officer under whose jurisdiction such duty was performed, and, under similar conditions, such other duties as may be authorized from time to time by the Department of the Air Force.

(5) *Competent authority.* Chief of Staff, United States Air Force, and the commanding generals of major air commands. This authority may be redelegated to subordinate commanders.

(b) *Table of active and inactive duty points.* (1) One point for attendance at an authorized unit training assembly.

(2) One point for each day of active duty, including extended active duty and active duty training.

(3) One point for accomplishment of an authorized training period.

(4) One point for participation in a period of equivalent training or instruction.

(5) One point for accomplishment of a period of equivalent duty or appropriate duties.

(6) One point for each three hours of extension courses, above precommissioning and indoctrination course level, satisfactorily completed.

(7) One point for each four hours of flying time performed by rated personnel and recorded on the individual's Air Force Form 5, when such flying time is accomplished pursuant to completion of approved and published minimum maintenance of proficiency requirements for the reserve forces category to which the individual is assigned. Flying time credited as a point gaining activity for the purpose of the regulations in this part need not be accomplished in a continuous period or within any specified period of time.

(8) One point for duty as instructor at:

(i) Authorized unit training assemblies.

(ii) Authorized unit schools.

(iii) Authorized assemblies of military personnel, other than unit training assemblies.

(iv) Air Force Reserve Officers' Training Corps, Army Reserve Officers' Training Corps, or Naval Reserve Officers' Training Corps classes.

(v) Civil Air Patrol or Air Scouts of the Boy Scouts of America assemblies pursuant to an authorized course of instruction, when such duty is ordered by competent authority.

(9) One point for preparation of each hour of instruction, but not to exceed two points for preparation of any one instruction period. If the subject is presented more than once, additional points will not be credited for subsequent preparation.

(10) Not more than one point will be credited to an individual for participation in, or accomplishment of, within any one calendar day, any of the above point gaining activities, unless the total or aggregate duration of such participation or accomplishment is at least eight hours. For the purpose of complying with this provision, points earned in accordance with subparagraphs (6) and (9) of this paragraph, will be credited on days other than those on which credit is given for other types of point gaining activity.

(11) Points may be earned for retention and promotion purposes pursuant to the foregoing, whether or not the individuals are in a pay status.

(12) Reserve personnel of other services attached for duty with the reserve forces of the Air Force will be governed by appropriate regulations of their respective services.

(13) Individuals will not be credited for instructional duty accomplished at an assembly for which he is being credited with attendance. This restriction will not affect credit for preparation.

(14) Nothing within the regulations of this part shall be interpreted to permit simultaneous participation in more than one activity for point gaining purposes. For example: If points are being credited for attendance at a unit training assembly, no points will be credited for flying time in connection with such assembly.

§ 861.11 *Active duty.* Officers who enter on extended active duty lose their Air Force Reserve Table of Organization and Equipment, Table of Distribution, or mobilization assignment, upon accepting such extended active duty assignment. Upon completion of extended active duty, Air Force Reserve officers will be given an opportunity for reassignment in the grade for which qualified and for which a vacancy exists in the Organized Air Reserve.

[SEAL] L. L. JUDGE,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 49-2492; Filed, Apr. 4, 1949; 8:47 a. m.]

TITLE 46—SHIPPING

Chapter II—United States Maritime Commission

Subchapter F—Merchant Ship Sales Act of 1946

[Gen. Order 60, Supp. 17, Amdt. 1]

PART 299—RULES AND REGULATIONS, FORMS AND CITIZENSHIP REQUIREMENTS

ADDITIONAL VESSEL PRICES

Correction

In Federal Register Document 49-2411, appearing on page 1501 of the issue for Friday, April 1, 1949, the table of vessel prices should be changed so that the floor price will read "$2,573,903".

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 9119]

PART 1—PRACTICE AND PROCEDURE

PART 19—CITIZENS RADIO SERVICE

MISCELLANEOUS AMENDMENTS

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of March 1949;

The Commission having under consideration the promulgation of rules and regulations governing the licensing and administrative aspects of citizens radio service; and

It appearing that the technical specifications governing citizens radio service became effective on December 1, 1947; and

It further appearing that in accordance with the requirements of section 4 (a) of the Administrative Procedure Act, general notice of proposed rule making in the above entitled matter was published in the FEDERAL REGISTER on August 19, 1948; and

It further appearing that written comments have been filed in connection with this proceeding by the International Municipal Signal Association, Inc., New York, N. Y., and the Citizens Radio Corporation, Cleveland, Ohio, and are generally in accord with the proposed rules; and

It further appearing that the only substantial suggested changes to the proposed rules were (1) that purchasers of citizens radio equipment should have interim authority to operate their equipment pending issuance of formal grants from the Commission, and (2) that the age of eligibility for persons seeking a citizens radio license be reduced from 18 to 16 years of age; and

It further appearing that the first suggestion must be rejected as being in violation of section 301 of the Communications Act of 1934, as amended, providing that no person may use or operate radio transmitting apparatus without a license from this Commission; and

It further appearing that the suggested reduction in the age of eligibility would not be in the public interest; and

It further appearing that several changes in language have been made in order to clarify the rules, but that they involve no substantial changes of the text as originally proposed; and

It further appearing that the Commission is presently in receipt of applications for authorization in the citizens radio service where the proposed operation is eligible under some other service; and

It further appearing that before releasing the citizens radio band to all types of operation, irrespective of eligibility elsewhere, it is desirable and necessary that the Commission reexamine the entire eligiblity problem in order to determine the impact of such policy on the established radio services, as well as the citizens radio service; and

It further appearing that the footnote to § 19.12 of the attached rules temporarily suspending Commission consideration of applications for citizens radio authorization where such applications are eligible under some other service, relates solely to practice and procedure before the Commission, thus making notice of proposed rule making in accordance with section 4 of the Administrative Procedure Act unnecessary; and

It further appearing that the public interest, convenience and necessity will be served by the adoption of the attached rules; and

It further appearing that authority for the proposed amendment is contained in sections 4 (i), 303 (a), (b), (c), (d), (e), (f), (l), (o), (p), (q), and (r) of the Communications Act of 1934, as amended:

It is ordered, That, effective June 1, 1949, Part 19 of the Commission's rules governing citizens radio service be amended to read as set forth below; and

It is further ordered, That, an additional footnote be appended to § 1.371 of the Commission's rules, immediately after the words *"Acceptance of applications,"* to read as follows:

* Pending Commission review of the eligibility requirements of the citizens radio service, applications for citizens radio authorization which are eligible under the rules governing some other service shall not, except for good cause shown, be acted upon by the Commission, but shall be placed in the pending files.

(Sec. 4 (i), 48 Stat. 1066, sec. 6 (b), 50 Stat. 191, 47 U. S. C. 154 (i), 303 (r). Interprets or applies section 303 (a), (b), (c), (d), (e), (f), (l), (o), (p) and (q), 1082–1083; 47 U. S. C. 303 (a), (b), (c), (d), (e), (f), (l), (o), (p), and (q))

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

TABLE SHOWING SOURCE OF RULES IN REVISED PART 19 BY SECTION

Present section No.:	Source
19.1	19.1.
19.2	New.
19.11	New.
19.12	New.
19.13	New.
19.14	New.
19.15	New.
19.16	New.
19.17	New.
19.18	New.
19.19	New.
19.20	New.
19.21	New.
19.31	19.101.
19.32	19.102.
19.33	19.103.
19.34	19.104.
19.35	19.105.
19.36	19.106.
19.37	19.107.
19.38	19.108.
19.41	19.201.
19.42	19.202.
19.43	19.203.
19.44	19.204.
19.45	19.205.
19.51	New.
19.52	New.
19.53	New.
19.54	New.
19.55	New.
19.56	New.
19.57	New.
19.58	New.
19.59	New.
19.60	New.
19.61	New.
19.62	New.
19.63	New.

TABLE SHOWING RECODIFICATION OF PART 19 BY SECTION

Old section:	Present section
19.1	19.1.
19.101	19.31.
19.102	19.32.
19.103	19.33.
19.104	19.34.
19.105	19.35.
19.106	19.36.
19.107	19.37.
19.108	19.38.
19.201	19.41.
19.202	19.42.
19.203	19.43.
19.204	19.44.
19.205	19.45.

PART 19—CITIZENS RADIO SERVICE

SUBPART A—GENERAL

Sec.
19.1 Statement of basis and purpose.
19.2 Definitions.

SUBPART B—APPLICATIONS AND LICENSES

19.11 Station authorization required.
19.12 Eligibility for station license.
19.13 Procedure for obtaining a citizens radio station license.
19.14 Forms to be used.
19.15 License period.
19.16 Renewal of station license.
19.17 Modification of station license.
19.18 Transfer of station license.
19.19 Duplicate station license.
19.20 Who may sign applications.
19.21 Defective applications.

SUBPART C—TECHNICAL SPECIFICATIONS AND TYPE APPROVAL OF EQUIPMENT

19.31 Frequencies available.
19.32 Station power.
19.33 Frequency tolerance.
19.34 Communication band.
19.35 Types of emission.
19.36 Percentage modulation.
19.37 Extra band radiation.
19.38 Technical measurements.
19.41 Submission of equipment for type approval.
19.42 Minimum equipment specifications.
19.43 Test procedure.
19.44 Certificate of type approval.
19.45 Acceptance of composite equipment.

SUBPART D—OPERATING REQUIREMENTS

19.51 Operation of citizens radio stations.
19.52 Station identification.

Sec.
19.53 Authorized station location.
19.54 Remote control.
19.55 Availability of license.
19.56 Assignment of frequencies.
19.57 Limitation on antenna.
19.58 Inspection of stations.
19.59 Permissible communications.
19.60 Emergency communications.
19.61 Control of transmitters.
19.62 Answers to notices of violations.
19.63 False signals.

AUTHORITY: §§ 19.1 to 19.63 issued under sec. 4 (i), 48 Stat. 1066, sec. 6 (b), 50 Stat. 191, 47 U. S. C. 154 (i), 303 (r). Interprets or applies secs. 303 (a), (b), (c), (d), (e), (f), (l), (o), (p), and (q), 1082–1083; 47 U. S. C. 303 (a), (b), (c), (d), (e), (f) (l), (o), (p) and (q).

SUBPART A—GENERAL

§ 19.1 *Basis and purpose.* The following rules and regulations are issued pursuant to the provisions of Title III of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmissions and to issue licenses for radio stations. The rules in this part are designed to provide for private short-distance radio communication, radio signalling, and control of objects or devices by radio, with minimum licensing requirements, and to provide procedures whereby manufacturers of radio equipment to be used or operated in the citizens radio service may obtain type approval of such equipment.

§ 19.2 *Definitions*—(a) *Citizens radio service.* A fixed and mobile service intended for use for private or personal radio communication, radio signalling, control of objects or devices by radio, and other purposes not specifically prohibited herein. Any citizen of the United States eighteen years of age or over is eligible for a station license in this service.

(b) *Citizens radio station.* The term "Citizens radio station" means a station in the citizens radio service.

(c) *Class A station.* The term "Class A station" means a citizens radio station which employs equipment meeting the technical specifications for Class A stations provided in §§ 19.31, 19.32, and 19.33.

(d) *Class B station.* The term "Class B station" means a citizens radio station which employs equipment meeting the technical specifications for Class B stations provided in §§ 19.31, 19.32, and 19.33.

(e) *Remote control.* The term "remote control" when applied to the use or operation of a citizens radio station means control of the transmitting equipment of that station from any place other than the location of the transmitting equipment, except that direct electrical or mechanical control of transmitting equipment located on board a craft or vehicle from some other point on the same craft or vehicle shall not be considered to be remote control.

(f) *Air-navigation-hazard antenna.* The term "air-navigation-hazard antenna" means the antenna and antenna supporting structure of any citizens radio station when (1) the over-all height of such antenna and antenna supporting structure above ground level (average terrain) is greater than 150 feet regardless of location, or when (2) the antenna is located within three miles of a Civil Aeronautics Administration landing area and the over-all height of the antenna and supporting structure exceeds five feet above ground level for each 500 feet of distance, or fraction thereof, from the nearest boundary of the landing area.

(g) *Person.* The term "person" includes an individual, partnership, association, trust, or corporation.

SUBPART B—APPLICATIONS AND LICENSES

§ 19.11 *Station authorization required.* No radio station shall be operated in the citizens radio service except under and in accordance with an authorization granted by the Federal Communications Commission.

§ 19.12 *Eligibility for station license.* Any person eighteen or more years of age and a citizen of the United States is eligible to apply for a citizens radio station license if qualified in accordance with the provisions of law: *Provided,* That not more than one person shall be eligible as licensee of the same apparatus.[1]

§ 19.13 *Procedure for obtaining a citizens radio station license.* (a) The first step toward obtaining a station license in the citizens radio service is the filing of an application for construction permit in accordance with § 19.14. After the construction is completed and the station tested, an application for license should be filed in accordance with § 19.14 (d).

(b) Where the equipment proposed to be installed is available as a complete unit and is of such a nature that no construction other than installation (connection to power supply and antenna) is necessary, no tests are required and the application for station license and construction permit may be submitted simultaneously.

§ 19.14 *Forms to be used*—(a) *Application for construction permit and station license using type-approved equipment.* Application for an authorization for a station in the citizens radio service using type-approved equipment shall be submitted on FCC Form 505 to any Commission Field Engineering Office or Washington, D. C. This form is a combination application for construction permit and station license.

(b) *Application for construction permit using non type-approved equipment.* Application for construction permit authorization for a station in the citizens radio service proposing to employ equipment which is not type-approved by the Commission shall be submitted on FCC Form 505 to the Federal Communications Commission, Washington 25, D. C. Such applications shall be accompanied by complete data in response to item 10 of the application form.

(c) *Application for construction permit when air-navigation-hazard antenna is proposed.* When it is proposed to erect an air-navigation-hazard antenna as defined in § 19.2 (f), Form 505 shall be accompanied by FCC Form 401a in quadruplicate. There shall be attached to each copy of FCC Form 401a a sketch showing the antenna and supporting structure as well as a map showing the location of the antenna, landing areas in the vicinity thereof, and all tall structures that may affect the marking of the antenna or supporting structure.

(d) *Application for station license.* Application for station license for equipment not type-approved shall be filed on FCC Form 403 upon completion of construction or installation in accordance with the terms and conditions set forth in the construction permit, and submitted to the Federal Communications Commission, Washington 25, D. C.

(e) *Application for modification of station license.* Application for modification of station license shall be made on FCC Form 505.

§ 19.15 *License period.* Unless otherwise stated in the authorization, licenses for all stations in the citizens radio service will be issued for a term of five years from date of issuance.

§ 19.16 *Renewal of station license.* Unless otherwise directed by the Commission, each application for renewal of station license in the citizens radio service shall be filed no less than 60 and no more than 120 days prior to the expiration date of the license sought to be renewed.

§ 19.17 *Modification of station license.* Application for modification of station license in the citizens radio service shall be made whenever it is proposed to:

(a) Move, change the height of, or erect an air-navigation-hazard antenna as defined in § 19.2 (f).

(b) Change the permanent address of the station licensee.

(c) Make changes of any nature which may affect the operational characteristics of the transmitting equipment.

(d) Substitute equipment not identical to that previously authorized in the station license.

(e) Increase the number of transmitters for operation under existing license.

(f) Add remote control or change control points.

§ 19.18 *Transfer of station license.* No station license shall be transferred without prior written approval of the Federal Communications Commission.

§ 19.19 *Duplicate station license.* Any licensee applying for a duplicate station license in the citizens radio service to replace an original which has been lost, mutilated, or destroyed, shall submit with the application the mutilated license or a signed statement setting forth the facts regarding the manner in which the original license was lost or destroyed.

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[1] Pending further consideration by the Commission of the formulation and possible adoption of rules affecting the eligibility requirements of the citizens radio service, applications thereunder shall be considered in accordance with the following procedure:

(a) Applications pending before the Commission and those hereafter filed for authorization in the citizens radio service, in those cases where the applicant is eligible under the rules governing any other service, shall not, except for good cause shown, be acted upon by the Commission, but shall be placed in the pending files.

(b) No such application shall be designated for hearing pending final agency determination of this matter.

(c) This procedure shall not apply to construction permits or other authorizations heretofore issued and presently outstanding.

If subsequent to the receipt by the licensee of the duplicate license, the original is found, either the duplicate or the original license shall be returned immeditely to the Commission.

§ 19.20 *Who may sign applications.* The application for an authorization shall be signed under oath or affirmation by the applicant if the applicant be an individual, or any one of the partners if an applicant be a partnership, by an officer if the applicant be a corporation, or by a member who is an officer if the applicant be an unincorporated association: *Provided, however,* That applications may be signed by the attorney for an applicant (a) in case of physical disability of the applicant, or (b) his absence from the continental United States. If it be made by a person other than the applicant, he must set forth in the verification the grounds of his belief as to all matters not stated upon his knowledge and the reason why it is not made by the applicant.

§ 19.21 *Defective applications.* (a) If an applicant is requested by the Commission to file any documents or information not included in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

(b) When an application is considered to be incomplete or defective, such application will be returned to the applicant, unless the Commission may otherwise direct. The reason for return of the application will be indicated, and, if appropriate, necessary additions or corrections will be suggested.

SUBPART C—TECHNICAL SPECIFICATIONS AND TYPE OF EQUIPMENT

§ 19.31 *Frequencies available.* The following frequency bands, within the band 460–470 Mc, will be assigned to the classes of stations indicated, on a nonexclusive basis subject to such interference as may be received from other stations in this service.

460–462 Mc- Class A stations at fixed locations only.
462–468 Mc—Class A and Class B stations.
468–470 MC—Class A stations.

§ 19.32 *Station power.* The input power to the anode (plate) circuit of the electron tube or tubes which supply energy to the radiating system of a station in the citizens radio service shall not exceed the values shown below, when used or operated in the frequency bands indicated:

460–462 Mc—50 watts.
462–468 Mc—10 watts.
468–470 Mc—50 watts.

§ 19.33 *Frequency tolerance.* The carrier frequency of a station in the citizens radio service shall be maintained as follows:

Class A stations—within plus or minus 0.02% of the frequency on which the transmitter is adjusted for operation.

Class B stations—all operation (including tolerance and communication band) shall be confined to within plus or minus 0.4% of 465 Mc.

§ 19.34 *Communication band.* The communication band for Class A stations shall not exceed 200 kilocycles. All operation (including frequency tolerance and communication band) shall be confined within the frequency band 460–470 Mc.

§ 19.35 *Types of emission.* Stations in the citizens radio service may use only amplitude, phase, or frequency modulation for continuous or interrupted carrier radiotelephony, radiotelegraphy, radioprinter, or facsimile.

§ 19.36 *Percentage modulation.* When the radio frequency carrier of a station in the citizens radio service is amplitude modulated, such modulation shall not exceed 100% on negative peaks.

§ 19.37 *Extra band radiation.* Spurious radiation from a citizens radio station transmitter shall be reduced or eliminated in accordance with good engineering practice. This spurious radiation, and any side-bands resulting from modulation or other causes, shall not be of sufficient intensity to cause interference in receiving equipment of good engineering design which is tuned to a frequency or frequencies outside the band 460–470 Mc.

§ 19.38 *Technical measurements.* Where it appears that a station in the citizens radio service is not being operated in accordance with the technical standards therefor, the Commission may require the licensee to provide for such tests as may be necessary to determine whether the equipment is capable of meeting these standards.

§ 19.41 *Submission of equipment for type approval.* (a) Manufacturers of equipment designed to be used or operated in the citizens radio service and within the frequency bands specified by this part, may submit units of such equipment to the Commission for type approval, upon grant of request therefor made in writing by the manufacturer to the Secretary of the Commission. Such a request will normally not be granted unless at least 100 units of the model to be submitted are scheduled for manufacture. When advised by the Commission, the applicant must send a typical production model or prototype of the particular equipment, complete with tubes and power supply, to the Commission's laboratory at Laurel, Maryland, for test. All instructions which are intended to be supplied to the purchaser of the equipment shall be included. Transportation of the equipment and associated documents to and from the laboratory shall be at no cost to the government.

(b) Prior to approval or rejection of the equipment, the results of these tests will be made known only to the responsible government officials and to the Commission. An official report of the tests will be made available only to the manufacturer involved; however, the Commission will publish from time to time lists of approved equipment.

(c) The prescribed tests may be conducted by the Federal Communications Commission or by any other cooperating government department. In addition, field tests, as deemed necessary or desirable by the Commission, may be carried out by authorized government personnel to determine the reliability of the equipment under operating conditions comparable to those expected to be encountered in actual service.

§ 19.42 *Minimum equipment specifications.* Equipment submitted for type approval shall be capable of meeting the technical specifications contained in this part either for Class A or for Class B stations in the citizens radio service, and, in addition, shall comply with the following:

(a) Any basic instructions concerning the proper adjustment, use or operation of the equipment that may be necessary, shall be attached to the equipment in suitable manner and in such positions as to be easily read by the operator.

(b) A durable nameplate shall be mounted on each transmitter showing the name of the manufacturer, the type or model designation, and provide suitable space for permanently displaying the serial number, FCC type approval number, and whether approved for Class A, Class B, or Class A and B stations.

(c) The transmitter shall be designed, constructed, and adjusted by the manufacturer to operate on a frequency or frequencies within the band 460–470 Mc. In designing the equipment every reasonable precaution shall be taken to protect the user from high voltage shock and radio-frequency burns. Connection to the batteries (if used) shall be made in such a manner as to permit replacement by the user without causing improper operation of the transmitter. Generally accepted modern engineering principles shall be utilized in the generation of radio frequency currents so as to guard against unnecessary interference to other radio services. In cases of serious interference arising from the design, construction, or operation of the equipment, the Commission may require appropriate technical changes in equipment to alleviate interference.

(d) Controls which may effect changes in the carrier frequency of the transmitter shall not be accessible from the exterior of any unit unless such accessibility is specifically approved by the Commission.

§ 19.43 *Test procedure.* Type approval tests to determine whether radio equipment meets the technical specifications contained in this part will be conducted under the following conditions:

(a) Gradual ambient temperature variations from 0° to 125° F.

(b) Relative ambient humidity from 20 to 95 per cent. This test will normally consist of subjecting the equipment for at least three consecutive periods of 24 hours each, to a relative ambient humidity of 20, 60 and 95 per cent, respectively, at a temperature of approximately 80° F.

(c) Movement of transmitter or objects in the immediate vicinity thereof.

(d) Power supply voltage variations normally to be encountered under actual operating conditions.

(e) Additional tests as may be prescribed, if considered necessary or desirable.

§ 19.44 *Certificate of type approval.* A certificate or notice of type approval, when issued to the manufacturer of

equipment intended to be used or operated in the citizens radio service, constitutes a recognition that on the basis of the test made the particular type of equipment appears to have the capability of functioning in accordance with the technical specifications and regulations contained in this part: *Provided,* All such additional equipment of the same type is properly constructed, maintained and operated: *And provided further,* That no change whatsoever is made in the design or construction of such equipment except upon specific approval by the Commission.

§ 19.45 *Acceptance of composite equipment.* Composite transmitting equipment (or equipment constructed by a manufacturer in lots of less than 100 units) will not, in the usual case, be tested by the Commission for the purpose of granting type approval. An applicant for citizens radio station license who proposes to use or operate such composite or other equipment which has not been type approved, shall supply complete information showing that the equipment fully complies with either Class A or Class B station requirements, on appropriate supplementary forms which shall accompany his original application. In this connection, the Commission may, at its discretion, require that the equipment or a prototype be made available to its laboratory for test in accordance with the procedures outlined which are applicable to equipment manufactured in lots of more than 100 units. In addition, field tests as deemed necessary or desirable may be carried out by authorized government personnel to determine the reliability of the equipment under operating conditions comparable to those encountered in actual service.

SUBPART D—OPERATING REQUIREMENTS

§ 19.51 *Operation of citizens radio stations.* (a) Citizens radio stations, except stations using manually operated telegraphy, may be operated by any person: *Provided,* Such operation is authorized by the station licensee who shall be at all times responsible for the use and operation of that station in accordance with all applicable provisions of treaty, laws and regulations: *And provided further,* That all transmitter adjustments or tests during or coincident with the installation, servicing, or maintenance of a radio station, which may affect the proper operatoin of such station, shall be made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radiotelegraph, and such person shall be responsible for the proper functioning of the station equipment.

(b) Stations using manually operated telegraphy may be operated only by the holders of a radiotelegraph class operator license of either the Restricted Radiotelegraph Operator Permit or higher class.

§ 19.52 *Station identification.* The registered serial number appearing on each citizens radio station license shall be the call signal assigned to such station. A citizens radio station shall transmit its call signal at the beginning and at the termination of all communications as well as at least once every ten minutes during every transmission of more than ten minutes duration: *Provided,* That in the case of stations conducting an exchange of several transmissions in sequence with each transmission less than three minutes duration, the call signal of the communicating stations need be transmitted only once every ten minutes of operation. Stations licensed solely for radio control of devices or remote objects are not required to identify transmissions.

§ 19.53 *Authorized station location.* The address of the licensee of a citizens radio station will be designated the licensed location of the station. A citizens radio station may be used or operated in accordance with the rules in this part at any location, not inconsistent with law, within the United States and on any craft or vehicle of the United States with the consent of the master or pilot thereof: *Provided,* That when such craft or vehicle is outside the United States the station, its operation, and its operator shall be subject to the governing provisions of any treaty concerning telecommunications to which the United States is a party, and when within the territorial limits of any foreign country, the station shall be subject also to such laws and regulations of that country as may be applicable.

§ 19.54 *Remote control.* A citizens radio station may be authorized to be used or operated by remote control: *Provided,* That adequate means are available to enable the person using or operating the station to render the transmitting equipment inoperative from the remote control position or positions should improper operation occur.

§ 19.55 *Availability of license.* The license, or other valid authorization, of each station in the citizens radio service, or photocopy thereof, shall be carried on the person of, or readily available to the person using or operating the station whenever the station is being used or operated, or shall be permanently attached to the transmitting equipment of the station, *Provided,* That in the case of a citizens radio station being used or operated by remote control, the station authorization shall be permanently posted at the principal control position of that station and a photocopy thereof shall be permanently posted at all control positions.

§ 19.56 *Assignment of frequencies.* The frequencies allocated for use by stations in this service are listed in § 19.31. All applicants for and licensees of stations in this service are required to cooperate in the most effective use of the frequencies assigned. All frequencies available for assignment to stations in this service are available on a shared basis only, and will not be assigned for the exclusive use of any one licensee.

§ 19.57 *Limitation on antenna.* No person shall erect an air-navigation-hazard antenna as defined in the regulations in this part, except upon approval by the Commission of the location and height of such antenna and upon full compliance with such painting, lighting and other requirements as the Commission may determine to be necessary after consideration of the proposed location and any potential menace to aerial navigation that may be involved.

§ 19.58 *Inspection of stations.* All stations and records of stations in the citizens radio service shall be made available for inspection upon request of an authorized representative of the Commission made to the licensee or to his representative.

§ 19.59 *Permissible communications.* (a) Each station in the citizens radio service is authorized to communicate with other stations in this service. Communications with stations licensed under other parts of the Commission's rules or with United States Government or foreign stations is prohibited.

(b) All communications in the citizens radio service shall be limited to the minimum practicable transmission time.

(c) Radio facilities authorized under the rules in this part may not be used for any purpose contrary to Federal, state or local law; or to carry communications for hire; or to carry program material of any kind either directly or indirectly for use in connection with radio broadcasting; or for direct transmission to the public through public address systems or by any other means.

(d) A citizens radio station used for radio control of devices or objects shall not be used where its operation involves the continuous radiation of energy by the station for operational control of such apparatus.

(e) A citizens radio station used for the purpose of communication by radiotelephone shall not emit a carrier wave unless modulated for the purpose of communication, and when using radiotelegraph radiation of energy shall not occur except when telegraphic signals are being transmitted, excepting for brief tests or when adjustments are being made to the transmitter.

§ 19.60 *Emergency communications.* The licensee of any station in this service may, during a period of emergency in which normal communication facilities are disrupted as a result of hurricane, flood, earthquake, or similar disaster, utilize such stations for emergency communication service by communicating in a manner other than that specified above: *Provided,*

(a) That as soon as possible after the beginning of such emergency use, notice be sent to the Commission in Washington, D. C. and to the Engineer in Charge of the district in which the station is located stating the nature of the emergency and the use to which the station is being put, and

(b) That the emergency use of the station shall be discontinued as soon as substantially normal communication facilities are again available and the Commission in Washington, D. C. and the Engineer in Charge be notified immediately when such public use of the station is terminated. The Commission may, at any time, order the discontinuance of such service.

§ 19.61 *Control of transmitters.* All transmitters licensed in the citizens

radio service must all times be under the control of the licensee.

§ 19.62 *Answers to notices of violations.* Any licensee receiving official notice of a violation of the terms of the Communications Act of 1934, as amended, any legislative act, Executive order, treaty to which the United States is a party, or the rules and regulations of the Federal Communications Commission, shall within three days from such receipt, send a written answer direct to the office of the Commission originating the official notice. If an answer cannot be sent, or an acknowledgment made within such three-day period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay. The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices.

If the notice relates to some violation that may be due to the physical or electrical characteristics of the transmitting apparatus, the answer shall state fully what steps, if any, are taken to prevent future violations.

If the notice of violation relates to some lack of attention to or improper operation of the station, the name of the person who caused the violation shall be given.

§ 19.63 *False signals.* No person shall transmit false or deceptive signals or communications by radio, or identify the station he is using or operating by means of a call signal or signal which has not been assigned by proper authority to that station, or refuse to properly identify himself and the radio station he is using or operating when such identification is possible under the conditions of use or operation in effect at the time such identification is requested.

[F. R. Doc. 49-2517; Filed, Apr. 4, 1949; 8:50 a. m.]

[Docket No. 9126]

PART 13—COMMERCIAL RADIO OPERATORS

AMENDMENT AND RECAPITULATION OF PART

In the matter of amendments to §§ 13.61 and 13.62 of the Commission's rules governing commercial radio operators.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 30th day of March 1949;

The Commission having under consideration the matter of the proposed amendments to §§ 13.61 and 13.62 of its rules governing commercial radio operators for the purpose of (a) including in the scope of authority of the various classes of commercial radio operator licenses as set forth in Part 13 of the Commission's rules, appropriate provision for stations using pulsed and frequency modulated types of emission, (b) defining more clearly the basic scope of authority of the various classes of commercial radio operator licenses by reference to types of transmission employed (radiotelephone, radiotelegraph, facsimile, television, etc.) in lieu of the present references to types of emission, and (c) expanding the scope of operating authority under the radiotelephone classes of license so as to include therein certain transmissions technically classified as telegraphy but which the holder of a radiotelephone class of license is considered to be qualified to handle;

It appearing, that on November 23, 1948, general notice of proposed rule making with respect thereto was published in accordance with section 4 (a) of the Administrative Procedure Act; and

It further appearing, that the period in which interested parties were afforded opportunity to submit comments expired December 31, 1948, and during that period the Commission received only one comment with reference to above-outlined purposes of the proposed amendments; and

It further appearing, that the Commission has considered this comment and the amendments herein ordered reflect such consideration; and

It further appearing, that the amendments herein ordered reflect certain changes in the amendments as heretofore proposed which are made on the Commission's own motion and which are comprised of editorial changes for the purpose of clarification of wording and rearrangement of material in a different sequence, as well as certain minor substantive changes for the purpose of including in the expanded scope of operating authority of holders of radiotelephone licenses telegraphy by automatic means for actuating automatic selective signaling devices; and also, since no relay stations are authorized in the frequencies 30–50 Mc, the substitution of 50 Mc for 30 Mc as the cut-off point above which a radiotelephone operator may operate a relay station which retransmits by automatic means the signals of a radiotelegraph station; and

It further appearing, that because of the nature of the foregoing changes in the amendments as heretofore proposed, compliance with the rule making procedure provided by section 4 (a) of the Administrative Procedure Act is unnecessary; and

It further appearing, that authority for the proposed amendment is contained in sections 4 (i), 303 (l) and 303 (r) of the Communications Act of 1934, as amended;

It is ordered, That effective May 9, 1949, §§ 13.61 and 13.62 of the Commission's rules governing commercial radio operators, be amended, as set forth below in the recapitulation of Part 13.

(Sec. 4 (i), 48 Stat. 1066, sec. 6 (b), 50 Stat. 191, 47 U. S. C. 154 (i), 303 (r). Interprets or applies sec. 303 (l), 48 Stat. 1082, 47 U. S. C. 303 (l))

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

PART 13—COMMERCIAL RADIO OPERATORS

RECAPITULATION OF REGULATIONS

Because of the number of outstanding amendments to Part 13 since it last appeared in a daily issue of the FEDERAL REGISTER, there follows a recapitulation of Part 13 as revised to and including the Commission's action of March 30, 1949.

AUTHORITY: §§ 13.1 to 13.94 issued under sec. 4 (i), 48 Stat. 1066, sec. 6 (b), 50 Stat. 191; 47 U. S. C. 154 (i), 303 (r). Interprets or applies sec. 303 (l), 48 Stat. 1082; 47 U. S. C. 303 (l).

GENERAL

§ 13.1 *Licensed operators required.*[1][2][3][4] Unless otherwise specified by the Com-

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[1] Whenever the term "license" is used generally to denote an authorization from the Commission, it includes "license," "permit" and "authorization".

[2] By Order No. 126, dated August 21, 1945 certain railroad employees were authorized to operate radio transmitting apparatus for use in connection with railroad operations without an operator's license upon compliance by the affected employee and the employing railroad with the condition of the Commission's order.

[3] By Commission Order No. 133, dated May 10, 1946, effective June 1, 1946, the Commission waived the requirements for the operation of mobile or portable radio transmitting apparatus by a licensed operator in the Emergency, Miscellaneous, Railroad and Experi-

mission, the actual operation of any radio station for which a station license is required shall be carried on only by a licensed radio operator of the required class.[5]

§ 13.2 *Classes of licenses.*[6][7] The classes of commercial operator licenses issued by the Commission are:

(a) Commercial radiotelephone group:

(1) Radiotelephone second-class operator license.

(2) Radiotelephone first-class operator license.

(b) Commercial radiotelegraph group:

(1) Radiotelegraph second-class operator license.

(2) Radiotelegraph first-class operator license.

(c) Restricted commercial group:

(1) Restricted radiotelephone operator permit.

(2) Restricted radiotelegraph operator permit.

§ 13.3 *Dual holding of licenses.* A person may not hold more than one radiotelegraph operator license (or restricted radiotelegraph permit) and one radiotelephone operator license (or restricted radiotelephone operator permit) at the same time.

§ 13.4 *Term of licenses.* Commercial operator licenses are normally issued for a term of 5 years from the date of issuance.

§ 13.5 *Eligibility for new license.* (a) Under the provisions of section 303 (l) of the Communications Act of 1934, as amended, United States citizens who are found qualified by the Commission are the only persons to whom radio operator licenses may be issued.

(b) Notwithstanding any other provisions of the Commission's rules, no person otherwise eligible shall be deemed to be eligible to be examined for or to receive a commercial radio operator license of any class, (1) whose commercial radio operator license is under suspension or is involved in a suspension proceeding, or (2) who is involved in any pending litigation based on an alleged violation of the Communications Act of 1934, as amended.

§ 13.6 *Operator license, posting of.* The original license of each station operator shall be posted at the place where he is on duty, except as otherwise provided in this part or in the rules governing the class of station concerned.

§ 13.7 *Operators, place of duty.* (a) Except as may be provided in the rules governing a particular class of station, one or more licensed radio operators of the grade specified by this part shall be on duty at the place where the transmitting apparatus of each licensed radio station is located and in actual charge thereof whenever it is being operated: *Provided, however,* That, (1) subject to the provisions of paragraph (b) of this section, in the case of a station licensed for service other than broadcast, where remote control of the transmitting apparatus has been authorized to be used, the Commission may modify the foregoing requirements upon proper application and showing being made so that such operator or operators may be on duty at the control point in lieu of the place where the transmitting apparatus is located; (2) in the case of two or more stations, except amateur and broadcast, licensed in the name of the same person to use frequencies above 30 megacycles only, a licensed radio operator holding a valid radiotelegraph or radiotelephone first- or second-class license who has the station within his effective control may be on duty at any point within the communication range of such stations in lieu of the transmitter location or control point during the actual operation of the transmitting apparatus and shall supervise the emissions of all such stations so as to insure the proper operation in accordance with the station license.

(b) An operator may be on duty at a remote control point in lieu of the location of the transmitting apparatus in accordance with the provisions of paragraph (a) (1) of this section: *Provided,* That all of the following conditions are met: (1) The transmitter shall be so installed and protected that it is not accessible to other than duly authorized persons; (2) the emissions of the transmitter shall be continuously monitored at the control point by a licensed operator of the grade specified for the class of station involved; (3) provision shall be made so that the transmitter can quickly and without delay be placed in an inoperative condition by the operator at the control point in the event there is a deviation from the terms of the station license; (4) the radiation of the transmitter shall be suspended immediately when there is a deviation from the terms of the station license.

APPLICATIONS

§ 13.11 *Procedure*—(a) *General.* The application in the prescribed form and including all required subsidiary forms and documents, properly completed and signed shall be submitted in person or by mail to the office at which the applicant desires his application to be considered and acted upon, which office will make the final arrangements for conducting any required examination. If the application is for renewal of license, it must be submitted during the last year of the license term, and if all prescribed service requirements are fulfilled,[8] the renewal license may be issued by mail. A renewal application shall also be accompanied by the license to be renewed.

(b) *Restricted radiotelephone operator permit.* No oral or written examination is required for this permit. If the application is properly completed and signed, and if the applicant is found to be qualified, the permit may be issued forthwith by personal delivery to the applicant or by mail.

§ 13.12 *Special provisions, radiotelegraph first class.* An applicant for the radiotelegraph first-class operator license must be at least 21 years of age at the time the license is issued and shall have had an aggregate of 1 year of satisfactory service as a radiotelegraph operator manipulating the key of a manually operated radiotelegraph station on board a ship or in a manually operated coastal telegraph station.

EXAMINATIONS

§ 13.21 *Examination elements.* Written examinations will comprise questions from one or more of the following examination elements:

(a) *Basic law.* Provisions of law and regulation with which every operator should be familiar.

(b) *Basic theory and practice.* Technical matters appropriate for every class of license except restricted radiotelephone operator permit.

(c) *Radiotelephone.* Additional matters, both legal and technical, including radiotelephone theory and practice.

(d) *Advanced radiotelephone.* Theory and practice applicable to broadcast station operation.

(e) *Radiotelegraph.* Additional matters, both legal and technical, including radiotelegraph theory and practice.

(f) *Advanced radiotelegraph.* Radiotelegraph theory and practice of wider scope, particularly with respect to ship radio matters (direction finders, ship radiotelephone stations, spark transmitters, etc.).

§ 13.22 *Examination requirements.* Applicants for original licenses will be required to pass examinations as follows:

(a) Radiotelephone second-class operator license:

(1) Ability to transmit and receive spoken messages in English.

(2) Written examination elements: 1, 2, and 3.

(b) Radiotelephone first-class operator license:

(1) Ability to transmit and receive spoken messages in English.

(2) Written examination elements: 1, 2, 3, and 4.

(c) Radiotelegraph second-class operator license:

(1) Ability to transmit and receive spoken messages in English.

(2) Transmitting and receiving code test of sixteen (16) code groups per minute.

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mental Services (Parts 5, 10, 11 and 16 of the Commission's Rules) subject to certain conditions stated in the Order. Those provisions of Part 13 of the Commission's Rules that are inconsistent with the provisions of Order No. 133 are suspended.

[4] By Order, dated and effective December 15, 1947, and by subsequent orders effective March 15, 1948, June 15, 1948 and November 15, 1948, the Commission temporarily waived to a limited extent the requirement that ship radar stations licensed in the Ship Service be operated by licensed radio operators. See footnote 71, § 8.195 of the Commission's Rules Governing Ship Service. See also § 13.61.

[5] See § 13.61.

[6] By Order No. 136, the Commission cancelled Order No. 97 effective June 30, 1946, *Provided, however,* That all Temporary Limited Radiotelegraph Second Class Operator Licenses outstanding at time of cancellation shall remain valid according to the respective terms thereof.

[7] By Order No. 136, the Commission cancelled Order No. 123 effective June 30, 1946: *Provided, however,* That all Temporary Emergency Radiotelegraph Second Class Operator Licenses outstanding at time of cancellation shall remain valid according to the respective terms thereof.

[8] See § 13.28.

(3) Written examination elements: 1, 2, 5, and 6.

(d) Radiotelegraph first-class operator license:

(1) Ability to transmit and receive spoken messages in English.

(2) Transmitting and receiving code test of twenty-five (25) words per minute plain language and twenty (20) code groups per minute.

(3) Written examination elements: 1, 2, 5, and 6.

(e) Restricted radiotelephone operator permit: No oral or written examination is required for this permit. In lieu thereof, applicants will be required to certify in writing to a declaration which states that the applicant has need for the requested permit; can receive and transmit spoken messages in English; can keep at least a rough written log in English or in some other language in general use that can be readily translated into English; is familiar with the provisions of treaties, laws and rules and regulations governing the authority granted under the requested permit; and understands that it is his responsibility to keep currently familiar with all such provisions.

(f) Restricted radiotelegraph operator permit:

(1) Transmitting and receiving code test of sixteen (16) code groups per minute.

(2) Written examination elements: 1, 2, and 5.

§ 13.23 *Form of writing.* Written examination shall be in English and shall be written by the applicant in longhand in ink, except that diagrams may be in pencil.

§ 13.24 *Passing mark.* A passing mark of 75 percent of a possible 100 percent will be required on each element of a written examination.

§ 13.25 *New class, additional requirements.* The holder of a license, who applies for another class of license, will be required to pass only the added examination elements for the new class of license. However, no person holding a new, duplicate, or replacement restricted radiotelephone operator permit issued upon the basis of a declaration, or a renewed restricted radiotelephone operator permit which renews a permit issued upon the basis of a declaration, shall, by reason of the declaration or the issuance of the permit based thereon, be relieved of qualifying by examination on any phase of the subject matter of the declaration when applying for any other operator license or permit for which examination on any subject matter is required.

§ 13.26 *Canceling and issuing new licenses.* If the holder of a license qualifies for a higher class in the same group, the license held will be canceled upon the issuance of the new license. Similarly, if the holder of a restricted operator permit qualifies for a first- or second-class operator license of the corresponding type, the permit held will be canceled upon issuance of the new license.

§ 13.27 *Eligibility for reexamination.* An applicant who fails an examination element will be ineligible for 2 months [9] to take an examination for any class of license requiring that element. Examination elements will be graded in the order listed,[10] and an applicant may, without further application, be issued the class of license for which he qualifies.

§ 13.28 *Renewal examinations and exceptions.* A restricted radiotelephone operator permit may be renewed without examination or showing of service and upon the same basis as an original permit of this class is issued. A license of any other class may be renewed without examination provided the service record on the license [11] shows at least 3 years' satisfactory service in the aggregate during the license term and while actually employed as a radio operator under that license, or shows at least 2 years' service in the aggregate, under the same conditions, of which 1 year must have been continuous and immediately prior to the date of application for renewal.

If the above requirements have not been fulfilled, but the service record shows at least 3 months' satisfactory service in the aggregate, while actually employed as a radio operator under the license during the last 3 years of the license term, a license may be renewed upon the successful completion of a renewal examinaton which may be taken at any time during the last year of the license term.

Renewal examinations will consist of the same elements as for original licenses. However, the written examination will be directed toward a determination of the applicant's qualifications to continue to hold the license for which he has previously qualified. If the renewal examination is not successfully completed before expiration of the license sought to be renewed, or if the service is not acceptable, the applicant will be examined as for the original license.

CODE TESTS

§ 13.41 *Transmitting speed requirements.* An applicant is required to transmit correctly in the International Morse code for 1 minute at the rate of speed prescribed in this part for the class of license desired.

§ 13.42 *Transmitting test procedure.* Transmitting tests shall be performed by the use of the conventional Morse key except that a semi-automatic key, if furnished by the applicant, may be used in transmitting code tests of 25 words per minute.

§ 13.43 *Receiving speed requirements.* An applicant is required to receive the International Morse code by ear, and legibly transcribe, consecutive words or code groups for a period of 1 minute without error at the rate of speed specified in the rules for the class of license for which the application is made.

§ 13.44 *Receiving test procedure.* Receiving code tests shall be written in longhand either in ink or pencil except that in the case of the 25 words per minute code test a typewriter may be used when furnished by the applicant.

§ 13.45 *Computing words or code groups.* Each five characters shall be counted as one word or code group. Punctuation marks or figures count as two characters.

SCOPE OF AUTHORITY

§ 13.61 *Operating authority.* The various classes of commercial radio operator licenses issued by the Commission authorize the holders thereof to operate radio stations, except amateur, as follows: [12]

(a) *Radiotelegraph first-class operator license.* Any station except—

(1) Stations transmitting television, or

(2) Any of the various classes of broadcast stations other than remote pickup and ST broadcast stations, or

(3) On a cargo vessel (other than a vessel operated exclusively on the Great Lakes) required by treaty or statute to be equipped with a radiotelegraph installation, the holder of this class of license may not act as chief or sole operator until he has had at least 6 months' satisfactory service in the aggregate as a qualified radiotelegraph operator in a station on board a ship or ships of the United States.

(b) *Radiotelegraph second-class operator license.* Any station except—

(1) Stations transmitting television, or

(2) Any of the various classes of broadcast stations other than remote pickup and ST broadcast stations, or

(3) On a passenger [13] vessel required by treaty or statute to maintain a continuous radio watch by operators or on a vessel having continuous hours of service for public correspondence, the holder of this class of license may not act as chief operator, or

(4) On a vessel (other than a vessel operated exclusively on the Great Lakes) required by treaty or statute to be equipped with a radiotelegraph installation, the holder of this class of license may not act as chief or sole operator until he has had at least 6 months' satisfactory service in the aggregate as a qualified radiotelegraph operator in a station on board a ship or ships of the United States.

(c) *Restricted radiotelegraph operator permit.* Any station except—

(1) Stations transmitting television, or

[9] A month after date is the same day of the following month, or if there is no such day, the last day of such month. This principle applies for other periods. For example, in the case of the 2-month period to which this note refers, an applicant examined December 1 may be reexamined February 1, and an applicant examined December 29, 30, or 31 may be reexamined the last day of February, while one examined February 28 may be reexamined April 28.

[10] See § 13.21.

[11] See §§ 13.91 to 13.94, inclusive.

[12] For temporary authority granted holders of valid first and second class operator licenses, either radiotelephone or radiotelegraph, to perform adjustments, servicing and maintenance of ship radar stations licensed in the Ship Service, see footnote 71, § 8.195, of the Commission's rules governing ship service.

[13] A ship shall be considered a passenger ship if it carries or is licensed or certificated to carry more than 12 passengers. A cargo ship means any ship not a passenger ship.

(2) Any of the various classes of broadcast stations other than remote pickup and ST broadcast stations, or

(3) Ship stations licensed to use telephony for communication with coastal telephone stations, or

(4) Radiotelegraph stations on board a vessel required by treaty or statute to be equipped with a radio installation, or

(5) Ship telegraph, coastal telegraph or marine-relay stations open to public correspondence;

Provided, That, in the case of equipment designed for and using telephone or facsimile transmissions: (1) Such operator is prohibited from making adjustments that may result in improper transmitter operation, and (2) the equipment is so designed that none of the operations necessary to be performed during the course of normal rendition of service may cause off-frequency operation or result in any unauthorized radiation, and (3) any needed adjustments of the transmitter which may affect proper operation of the station are regularly made by or in the presence of an operator holding a first- or second-class license, either radiotelephone or radiotelegraph, who shall be responsible for the proper operation of the equipment.

(d) *Radiotelephone first-class operator license.* Any station except—

(1) Stations transmitting telegraphy by any type of the Morse Code, or

(2) Ship stations licensed to use telephony and power in excess of 100 watts for communication with coastal telephone stations.

(e) *Radiotelephone second-class operator license.* Any station except—

(1) Stations transmitting telegraphy by any type of the Morse Code, or

(2) Standard broadcast stations, or

(3) International broadcast stations, or

(4) FM broadcast stations, or

(5) Non-commercial educational FM broadcast stations with transmitter power rating in excess of 1 kilowatt, or

(6) Television broadcast stations licensed for commercial operation, or

(7) Ship stations licensed to use telephony and power in excess of 100 watts for communication with coastal telephone stations.

(f) *Restricted radiotelephone operator permit.* Any station except—

(1) Stations transmitting television, or

(2) Stations transmitting telegraphy by any type of the Morse Code, or

(3) Any of the various classes of broadcast stations other than remote pickup and ST broadcast stations, or

(4) Coastal telephone stations or coastal harbor stations other than in the Territory of Alaska, or

(5) Ship stations licensed to use telephony for communication with coastal telephone stations;

Provided, That, (1) Such operator is prohibited from making any adjustments that may result in improper transmitter operation, and (2) the equipment is so designed that none of the operations necessary to be performed during the course of normal rendition of service may cause off-frequency operation or result in any unauthorized radiation, and (3) any needed adjustments of the transmitter that may affect the proper operation of the station are regularly made by or in the presence of an operator holding a first- or second-class license, either radiotelephone or radiotelegraph, who shall be responsible for the proper operation of the equipment.

§ 13.62 *Special privileges.* In addition to the operating authority granted under § 13.61, the following special privileges are granted the holders of commercial radio operator licenses:

(a) The holder of any class of commercial radio operator license may operate any station in the experimental service while using frequencies solely above 300 megacycles.

(b) The holder of any class of radiotelephone operator license, whose license authorizes him to operate a station while transmitting telephony, may operate the same station when transmitting on the same frequencies, any type of telegraphy under the following conditions:

(1) When transmitting telegraphy by automatic means for identification, for testing, or for actuating an automatic selective signaling device, or

(2) When properly serving as a relay station and for that purpose retransmitting by automatic means, solely on frequencies above 50 megacycles, the signals of a radiotelegraph station, or

(3) When transmitting telegraphy as an incidental part of a program intended to be received by the general public, either directly or through the intermediary of a relay station or stations.

§ 13.63 *Operator's responsibility.* The licensed operator responsible for the maintenance of a transmitter may permit other persons to adjust a transmitter in his presence for the purpose of carrying out tests or making adjustments requiring specialized knowledge or skill, provided that he shall not be relieved thereby from responsibility for the proper operation of the equipment.

§ 13.64 *Obedience to lawful orders.* All licensed radio operators shall obey and carry out the lawful orders of the master or person lawfully in charge of the ship or aircraft on which they are employed.

§ 13.65 *Damage to apparatus.* No licensed radio operator shall willfully damage, or cause or permit to be damaged, any radio apparatus or installation in any licensed radio station.

§ 13.66 *Unnecessary, unidentified, or superfluous communications.* No licensed radio operator shall transmit unnecessary, unidentified, or superfluous radio communications or signals.

§ 13.67 *Obscenity, indecency, profanity.* No licensed radio operator or other person shall transmit communications containing obscene, indecent, or profane words, language, or meaning.

§ 13.68 *False signals.* No licensed radio operator shall transmit false or deceptive signals or communications by radio, or any call letter or signal which has not been assigned by proper authority to the radio station he is operating.

§ 13.69 *Interference.* No licensed radio operator shall willfully or maliciously interfere with or cause interference to any radio communication or signal.

§ 13.70 *Fraudulent licenses.* No licensed radio operator or other person shall obtain or attempt to obtain, or assist another to obtain an operator's license by fraudulent means.

MISCELLANEOUS

§ 13.71 *Issue of duplicate or replacement licenses.* (a) An operator whose license, permit or authorization has been lost, mutilated or destroyed shall immediately notify the Commission. A properly executed application for duplicate should be submitted to the office of issue, embodying a statement of the circumstances involved in the loss, mutilation or destruction of the license or permit for which a duplicate is desired. If the license or permit has been lost, the applicant must state that reasonable search has been made for it, and further, that in the event it be found either the original or the duplicate will be returned for cancellation. The applicant should also submit documentary evidence of the service that has been obtained under the original license or permit, or a statement under oath or affirmation embodying that information.

(b) The holder of any license, permit or authorization whose name is legally changed may make application for replacement document to indicate the new legal name, by submitting a properly executed application to the office of issue, accompanied by the license, permit or authorization affected and by documentary evidence of the legality of the name change.

§ 13.72 *Exhibiting signed copy of application.* When a duplicate or replacement operator license or permit has been requested, or request has been made for renewal upon service or for an endorsement or a verification card, the operator shall exhibit in lieu of the original document a signed copy of the application which has been submitted by him.

§ 13.73 *Verification card.* The holder of an operator license or permit of the diploma form (as distinguished from such document of the card form) may, by filing a properly executed application accompanied by his license or permit, obtain a verification card.[14] This card may be carried on the person of the operator in lieu of the original license or permit when operating any station at which posting of an operator license is not required: *Provided,* That the license is readily accessible within a reasonable time for inspection upon demand by an authorized Government representative.

§ 13.74 *Posting requirements for operator.* (a) Performing duties other than, or in addition to, service or maintenance, at two or more stations. The holder of any class of radio operator license or permit of the diploma form (as distinguished from the card form) who performs any radio operating duties, as contrasted with but not necessarily exclusive of service or maintenance duties, at two or more stations at which posting of

[14] Form 758–F.

his license or permit is required shall post at one such station his operator license or permit and shall post at all other such stations a duly issued verified statement.[13]

(b) Performing service or maintenance duties at one or more stations. The holder of a radiotelephone or radiotelegraph first- or second-class radio operator license who performs, or supervises, and is responsible for service or maintenance work on any transmitter of any station for which a station license is required, shall post his license at the transmitter involved whenever the transmitter is in actual operation while service or maintenance work is being performed: *Provided,* That in lieu of posting his license, he may have on his person either his license or a verification card:[14] *And provided further,* That if he performs operating duties in addition to service or maintenance duties he shall, in lieu of complying with the foregoing provisions of this paragraph, comply with the posting requirements applicable to persons performing such operating duties, as set forth in paragraph (a) of this section, and in the rules and regulations applicable to each service.

§ 13.75 *Record of service and maintenance duties performed.* In every case where a station log or service and maintenance records are required to be kept, and where service or maintenance duties are performed which may affect the proper operation of a station, the responsible operator shall sign and date an entry in the log of the station concerned, or in the station maintenance records if no log is required, giving:

(a) Pertinent details of all service and maintenance work performed by him or under his supervision;

(b) His name and address; and

(c) The class, serial number and expiration date of his license;

Provided, That the responsible operator shall not be subject to requirements (b) and (c) of this section in relation to a station, or stations of one licensee at a single location, at which he is regularly employed as an operator on a full time basis and at which his license is properly posted.

SERVICE

§ 13.91 *Endorsement of service record.* A station licensee, or his duly authorized agent, or the master of a vessel acting as the agent of a licensee, shall endorse the service record appearing on said operator license, showing the call letters and types of emission of the station operated, the nature and period of employment, and quality of performance of duty.

§ 13.92 *Aviation service endorsement.* If the operator has operated more than three stations in the aviation service, the of the aviation chain or company in lieu service may be shown by giving the name of listing the call letters of the several stations.

§ 13.93 *Service acceptability.* Credit will be allowed only for satisfactory service obtained under conditions that required the employment of licensed operators, or when obtained at United States Government stations.

§ 13.94 *Statement in lieu of service endorsement.* The holder of a radiotelegraph license or a restricted radiotelegraph operator permit desiring an endorsement to be placed thereon attesting to an aggregate of at least 6 months' satisfactory service as a qualified operator on a vessel of the United States, may, in the event documentary evidence cannot be produced, submit to any office of the Commission a statement under oath accompanied by the license to be endorsed, embodying the following:

(a) Names of ships at which employed;

(b) Call letters of stations;

(c) Types of emission used;

(d) Type of service performed as follows:

(1) Manual radiotelegraph operation only; and

(2) Transmitter control only; or

(3) Combination of (1) and (2) running concurrently;

(e) Whether service was satisfactory or unsatisfactory;

(f) Period of employment;

(g) Name of master, employer, licensee, or his duly authorized agent.

[F. R. Doc. 49-2518; Filed, Apr. 4, 1949; 8:51 a. m.]

[13] Form 758-F.

[14] Form 759.

NOTICES

DEPARTMENT OF COMMERCE

Office of Industry Cooperation

VOLUNTARY STEEL ALLOCATION PLAN FOR CONSTRUCTION, CONVERSION AND REPAIR OF DOMESTIC FREIGHT-CARRYING BARGES AND TOWING VESSELS

TERMINATION OF DELEGATED AUTHORITY

In accordance with paragraph 4 of the Amended Voluntary Plan, under Public Law 395, 80th Congress, for Allocation of Steel Products for the Construction, Conversion and Repair of Domestic Freight-Carrying Barges and Towing Vessels (14 F. R. 668), the Director of the Office of Defense Transportation has requested the Secretary of Commerce to relieve him, effective April 16, 1949, of the responsibility of carrying on the functions and the activities prescribed for and delegated to him and to the Office of Defense Transportation, under the said Plan. Accordingly, all authority heretofore delegated by the Secretary of Commerce to the Director of the Office of Defense Transportation and to the Office of Defense Transportation, under or in connection with the above Plan (in its original or amended form), is hereby terminated, effective at the close of business on April 16, 1949.

Thereafter, the said Plan will be administered by the Director of the Office of Industry Cooperation, in the Office of the Secretary of Commerce, in accordance with the procedures established for the administration of voluntary plans under Public Law 395, 80th Congress, as amended, and Executive Order 9919.

[SEAL] CHARLES SAWYER,
Secretary of Commerce.

MARCH 31, 1949.

[F. R. Doc. 49-2511; Filed, Apr. 4, 1949; 8:49 a. m.]

VOLUNTARY STEEL ALLOCATION PLAN FOR CONSTRUCTION OF DOMESTIC RAILWAY FREIGHT CARS AND REPAIR OF RAILROAD ROLLING STOCK

TERMINATION OF DELEGATED AUTHORITY

In accordance with paragraph 8 of the Amended Voluntary Plan, under Public Law 395, 80th Congress, for Allocation of Steel Products for Construction of Domestic Freight Cars and the Repair of Railroad Rolling Stock (14 F. R. 667), the Director of the Office of Defense Transportation has requested the Secretary of Commerce to relieve him, effective April 16, 1949, of the responsibility of carrying on the functions and the activities prescribed for and delegated to him and to the Office of Defense Transportation, under the said Plan. Accordingly, all authority heretofore delegated by the Secretary of Commerce to the Director of the Office of Defense Transportation and to the Office of Defense Transportation, under or in connection with the above Plan (in its original or amended form), including the delegation published at 13 F. R. 2142, is hereby terminated, effective at the close of business on April 16, 1949.

Thereafter, the said Plan will be administered by the Director of the Office of Industry Cooperation, in the Office of the Secretary of Commerce, in accordance with the procedures established for the administration of voluntary plans under Public Law 395, 80th Congress, as amended, and Executive Order 9919.

[SEAL] CHARLES SAWYER,
Secretary of Commerce.

MARCH 31, 1949.

[F. R. Doc. 49-2512; Filed, Apr. 4, 1949; 8:50 a. m.]

VOLUNTARY PLANS UNDER PUBLIC LAW 395, 80TH CONGRESS

NOTICE OF CONTINUANCE OF CERTAIN EXISTING VOLUNTARY PLANS UNDER EXTENSION OF AUTHORITY AND WITHDRAWAL OF REQUESTS FOR UNILATERAL ACTION

Correction

In Federal Register Document 49-1887, appearing on page 1138 of the issue for Saturday, March 12, 1949, paragraph (b) 11 should read as follows:

11. Gas Pipe Line to Atomic Energy Commission Plant (14 F. R. 943).

Office of International Trade

[Case No. 47]

SEMADIS & CO. AND PETER K. SEMADIS

ORDER DENYING LICENSE PRIVILEGES

In the matter of Semadis & Company, Peter K. Semadis, 641 8th Avenue, New York, New York.

This proceeding was begun February 16, 1949, by the mailing of a charging letter to the above named respondents wherein the Office of International Trade charged respondents with having violated section 6 of the act of July 2, 1940 (54 Stat. 714), as amended, and the regulations issued thereunder, by filing ten applications pursuant to which export licenses were issued for the shipment of multiple gift parcels on behalf of specific donors in the United States to specific donees in Greece, which applications were alleged to be false and fraudulent in that the lists of donors submitted as parts of such applications contained large numbers of names of persons from whom respondents held no orders for the shipment of such gift parcels.

A hearing was held on said charges before the Compliance Commissioner of the Office of International Trade in Washington, D. C., pursuant to notice given in the charging letter, on March 9, 1949. Respondents failed to appear and their default was noted. Testimony and documentary evidence was offered on behalf of the Office of International Trade and was received in evidence and a verbatim transcript was taken. The Compliance Commissioner, after reviewing the transcript and after due consideration of the record, on March 23, 1949, filed his report in the matter.

It appears from the record and the report of the Compliance Commissioner that respondent Peter K. Semadis is and at all times relevant to this proceeding was an individual engaged in New York City, under the trade name of respondent Semadis & Company, in the solicitation of orders for gift parcels of food for shipment to Greece and in the making of such shipments; that during the period from approximately April 1948, through October 1948 respondents filed with the Office of International Trade ten applications for export licenses, which licenses were issued to respondents, for the making of multiple shipments of gift parcels on behalf of specific named donors in the United States to specific named donees in Greece; that such applications were accompanied by lists of alleged donors which lists were false and fictitious, and were known to respondents to be so, in that a large number of such alleged donors had not placed orders for gift parcels with respondents; that the names of numerous falsely listed donors appeared on more than one application and in some cases more than once on the same application, either in identical form or with slight variations in spelling; that a fair and representative sampling and spot checking of donor lists indicates that false donors were listed with such frequency and under such circumstances as to result in the necessary inference that such names were obtained by respondents from lists supplied by other concerns and were used regularly as part of a fixed plan or design to make large shipments of food parcels to Greece in violation of the export control regulations; and that in supplying such false lists of donors respondents submitted false information to the Office of International Trade intentionally and fraudulently and thereby violated the regulations issued pursuant to section 6 of the act of July 2, 1940 (54 Stat. 714), as amended, and section 35A of the United States Criminal Code (18 U. S. C. 80).

The Compliance Commissioner has accordingly recommended that respondents be denied the privilege of obtaining or using or participating directly or indirectly in the obtaining or using of export licenses, including general licenses, for such time and to such extent as licenses for exports are required by law; that such denial of export license privileges be made applicable not only to each of said respondents but also to any trade name, firm, corporation or business association in which respondent Peter K. Semadis shall be or become a partner or have a controlling interest or hold a position of responsibility; and that all outstanding export licenses held by or issued in the name of either of said respondents be revoked and ordered returned forthwith to the Office of International Trade for cancellation.

The findings and recommendations of the Compliance Commissioner have been carefully considered together with the record in this matter and it appears that such findings are supported by the record and that such recommendations are reasonable and should be adopted.

Now, therefore, it is ordered as follows:

(1) Respondents and each of them are hereby denied the privilege of obtaining or using or participating directly or indirectly in the obtaining or using of export licenses, including general licenses, for such time and to such extent as licenses for exports are required by law.

(2) Such denial of export license privileges shall extend not only to each of said respondents but also to any trade name, firm, corporation or business association in which respondent Peter K. Semadis shall be or become a partner or have a controlling interest or hold a position of responsibility.

(3) All outstanding export licenses held by or issued in the names of either of said respondents are hereby revoked and shall be forthwith returned to the Office of International Trade for cancellation.

Dated: March 24, 1949.

LORING K. MACY,
Acting Director,
Commodities Division.

[F. R. Doc. 49-2500; Filed, Apr. 4, 1949; 8:48 a. m.]

DEPARTMENT OF LABOR

Wage and Hour and Public Contracts Divisions

EMPLOYMENT OF HANDICAPPED CLIENTS BY SHELTERED WORKSHOPS

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES

Notice is hereby given that special certificates authorizing the employment of handicapped clients at hourly wage rates lower than the minimum wage rates applicable under section 6 of the Fair Labor Standards Act of 1938 and section 1 (b) of the Walsh-Healey Public Contracts Act have been issued to the sheltered workshops hereinafter mentioned, under section 14 of the Fair Labor Standards Act of 1938 (sec. 14, 52 Stat. 1068; 29 U. S. C. 214) and Part 525 of the regulations issued thereunder (29 CFR, Cum. Supp., Part 525, amended 11 F. R. 9556), and under sections 4 and 6 of the Walsh-Healey Public Contracts Act (secs. 4, 6, 49 Stat. 2038; 41 U. S. C. 38, 40) and Article 1102 of the regulations issued pursuant thereto (41 CFR, Cum. Supp., 201.1102).

The names and addresses of the sheltered workshops to which certificates were issued, wage rates, and the effective and expiration dates of the certificates are as follows:

Institute for the Crippled and Disabled, 400 First Avenue, New York 10, New York; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 10 cents per hour, whichever is higher, and a rate of not less than 10 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective April 1, 1949, and expires March 31, 1950.

Institute for the Crippled and Disabled, Therapy Division, 400 First Avenue, New York 10, New York; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 5 cents per hour, whichever is higher, and a rate of not less than 5 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective April 1, 1949, and expires March 31, 1950.

Pennsylvania Working Home for Blind Men, 36th & Lancaster Avenue, Philadelphia, Pennsylvania; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 15 cents per hour, whichever is higher, and a rate of not less than 15 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective April 1, 1949, and expires March 31, 1950.

Missouri Goodwill Industries, 4140 Forest Park Boulevard, St. Louis, Missouri; at a wage rate of not less than

the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 25 cents per hour, whichever is higher, and a rate of not less than 15 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective March 28, 1949, and expires September 30, 1949.

The Lighthouse for the Blind of New Orleans, 630 Camp Street, New Orleans 12, Louisiana; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 35 cents per hour, whichever is higher, and a rate of not less than 35 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective March 18, 1949, and expires March 31, 1950.

The employment of handicapped clients in the above-mentioned sheltered workshops under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 525 of the regulations. These certificates have been issued on the applicants' representations that they are sheltered workshops as defined in the Regulations and that special services are provided their handicapped clients. A sheltered workshop is defined as, "A charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, and to provide such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature."

These certificates may be canceled in the manner provided by the regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D. C., this 28th day of March 1949.

RAYMOND G. GARCEAU,
Director,
Field Operations Branch.

[F. R. Doc. 49-2497; Filed, Apr. 4, 1949; 8:48 a. m.]

FEDERAL WORKS AGENCY

Bureau of Community Facilities

ORGANIZATION

CHANGE IN LOCATION OF DIVISION OFFICE

Section 211.27 (11 F. R. 177A-576), entitled "Location of offices," as amended by 12 F. R. 5950 and 13 F. R. 4695, of Subpart B, entitled, "Division Offices," of Part 211, entitled "Organization,"[1] is hereby further amended in the following respect:

Headquarters and present office location of Division No. 1 are changed from 101 Park Avenue, New York 17, N. Y., to 42 Broadway, New York 4, N. Y.

Dated this 25th day of March 1949.

(Sec. 3, 60 Stat. 238; 5 U. S. C. 1002)

[SEAL] PHILIP B. FLEMING,
Federal Works Administrator.

[F. R. Doc. 49-2493; Filed, Apr. 4, 1949; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2071]

MONTAUP ELECTRIC CO.

MEMORANDUM OPINION AND ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 29th day of March A. D. 1949.

Montaup Electric Company ("Montaup"), a public utility company in the holding company system of Eastern Utilities Associates ("EUA"), a registered holding company, has filed a declaration and amendment thereto pursuant to section 7 of the Public Utility Holding Company Act of 1935 and the rules and regulations promulgated thereunder.

Montaup proposes to issue, from time to time, unsecured promissory notes in an aggregate amount not in excess $4,000,000 with an interest rate of 2¼% per annum and maturing not later than one year less one day after the issuance of the first of said notes but in no event later than March 31, 1950. The notes, which may be prepaid at any time without premium, will be issued to The First National Bank of Boston.

Notice of the filing and the transactions proposed therein was given in the manner prescribed by Rule U-23 promulgated under the act and we have received no request for a hearing thereon. While we believe that the transactions may be approved under the provisions of the act on the basis of the material contained in the declaration and amendment and that no hearing is therefore necessary, we have deemed it advisable to set forth certain considerations with respect thereto.

Montaup is exclusively engaged in the generation and transmission of electricity and supplies the major portion of the electric energy required by Blackstone Valley Gas and Electric Company ("Blackstone"), Brockton Edison Company ("Brockton") and Fall River Electric Light Company ("Fall River"). Under the terms of the power contract these three companies have agreed, subject to certain conditions, to purchase additional securities of Montaup so that the amount of securities owned by each company will be in proportion to the estimated electric demand of each. As a result, these three companies own all of the preferred and common stock of Montaup. The only other security of Montaup presently outstanding is $740,000 of unsecured promissory notes held by a bank and proposed to be discharged with a portion of the proceeds of the presently proposed notes.

Blackstone and Brockton, substantially all of whose common stock is held by EUA, have funded debt outstanding with the public and in addition Blackstone has outstanding publicly held preferred stock. The debt of the two companies is secured in part by the stock of Montaup held respectively by each of them. The common stock of Fall River is held approximately one-third by EUA and two-thirds by New England Electric System, also a registered holding company. Fall River also has funded debt outstanding in the hands of the public.

From the foregoing it would clearly appear that the sole justification for the separate incorporation of Montaup is that it provides the generating facilities for three separate distributing companies in two holding company systems. The problems engendered by this separate incorporation of generating facilities and the complicated interrelationships resulting therefrom, have been alleviated in the past by the apparent policy of financing Montaup through the companies it serves. Insofar as the present proposal foreshadows the use of Montaup as a permanent financing vehicle, problems as to the resultant complications in structure thus inevitably arise. We recognize that there are, at present, obstacles to providing for the immediate needs of Montaup by reason of the financing problems of the three owning companies and of their parent holding companies. Because of this fact, we can find it appropriate for Montaup itself to arrange for temporary financing in the form of the proposed bank loan, but any program for its replacement by permanent capital should be considered in relation to the over-all system programs. Further, it is necessary that the managements give their attention to a program which will not unduly encumber the structure of either of the holding company systems involved.

The seriousness of this problem is made manifest by the fact that the construction program upon which Montaup is embarked, involving the installation of a 60,000 kilowatt steam-electric generating unit, will require the raising of an estimated $9,000,000, in addition to the $4,000,000 here proposed, to carry the company through 1950.

Subject to the foregoing considerations, we find with respect to said declaration, as amended, that the requirements of the applicable provisions of the act and the rules promulgated thereunder are satisfied and that no adverse findings are necessary, and deem it appropriate in the public interest and in the interest of investors and consumers that said declaration, as amended, be permitted to become effective forthwith.

It is ordered, Pursuant to Rule U-23 and the applicable provisions of said act and subject to the terms and conditions contained in Rule U-24, that said declaration, as amended, be, and the same hereby is, permitted to become effective forthwith.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 49-2494; Filed, Apr. 4, 1949; 8:47 a. m.]

[1] Codification of Part 211 was discontinued (13 F. R. 7355).

[File No. 811-428]

AMERICAN GOLD, INC.

NOTICE OF MOTION TO TERMINATE REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C. on the 30th day of March A. D. 1949.

Notice is hereby given that the Division of Corporation Finance has filed a motion for an order pursuant to section 8 (f) of the Investment Company Act of 1940 declaring that American Gold, Inc., a registered investment company, has ceased to be an investment company.

The Division of Corporation Finance has been advised that American Gold, Inc., has been dissolved; that all its assets have been distributed to its shareholders with the exception of the sum of $386.58 which is held by the First National Bank at Glendale, California for those shareholders who have failed to collect their pro rata share of such assets.

All interested persons are referred to said motion which is on file at the office of this Commission in Washington, D. C. for a more detailed statement of the matters of fact and law therein asserted.

Notice is further given that an order declaring that the registration of American Gold, Inc. has ceased to be in effect, subject to such conditions as the Commission may deem necessary or appropriate, may be entered by the Commission at any time after April 8, 1949, unless prior thereto a hearing in this matter shall be ordered by the Commission, as provided by Rule N-5 of the rules and regulations promulgated under the act. Any interested person may, not later than April 5, 1949, at 5:30 p. m., submit to the Commission in writing his views or any additional facts bearing upon this motion or the desirability of a hearing thereon or request the Commission in writing that a hearing be held, stating his reasons therefor and the nature of his interest in the matter. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-2495; Filed, Apr. 4, 1949; 8:48 a. m.]

[File No. 70-2077]

NORTHERN NATURAL GAS CO.

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 30th day of March 1949.

Northern Natural Gas Company ("Northern Natural"), a registered holding company, has filed a declaration and amendments thereto pursuant to sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("act") with respect to the following transactions:

Northern Natural proposes to issue and sell for cash 406,000 additional shares of its Common Stock, par value $10 per share. In connection with such issue and sale, Northern Natural proposes to issue to the holders of its outstanding 2,030,000 shares of Common Stock, transferable warrants carrying: (1) the Right to Subscribe until April 18, 1949, for shares of Common Stock on the basis of one share for each five shares of Common Stock held of record at the close of business on March 30, 1949, at the Subscription Price of $29.50 per share, and (2) the conditional privilege to subscribe at the Subscription Price (subject to pro rata allotment) for any number of additional shares of Common Stock not subscribed for through (a) the exercise of Rights to Subscribe, and (b) the acceptance by employees of the company of an offer to them to subscribe for shares of said Common Stock. The offer to employees will be made to the company's regular full-time employees (approximately 1,250) and will accord such employees (including officers and directors) the right to subscribe at the Subscription Price, during the subscription period, for Common Stock in an amount not to exceed 10 shares per employee, from the number of shares offered and not subscribed for by the exercise of Rights to Subscribe. No fractional shares of Common Stock will be issued. Rights in excess of those necessary to subscribe for a full share may be sold or additional rights may be purchased to entitle the holder of the warrant to subscribe to one or more full shares of Common Stock.

Northern Natural states that the net proceeds to be received from the proposed issue and sale of shares of Common Stock, together with general funds of the company, will be applied toward the cost of its 1949 construction program, estimated in the amount of $13,845,000.

Northern Natural estimates that the fees and expenses to be incurred in connection with the proposed transactions will amount to $115,000, which includes legal fees estimated not to exceed $4,000, payable to Kennedy, Holland, DeLacy & Svoboda, as counsel for Northern Natural, accountants fees of $1,723.77 payable to Arthur Andersen & Co., and an estimated $60,000 payable to Chemical Bank & Trust Company, New York, New York, Harris Trust and Savings Bank, Chicago, Illinois and Wells Fargo Bank & Trust Co., San Francisco, California, as agents of the company, for services to be rendered in connection with the issuance and transfer of Rights to Subscribe.

The Nebraska State Railway Commission has issued its order authorizing the proposed issue and sale, and the State Corporation Commission of the State of Kansas has issued its certificate with respect to the proposed issue and sale.

Said declaration having been filed on February 28, 1949 and amendments thereto having been filed on March 8, 21, 24, 29 and 30, 1949, and notice of such filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said declaration, as amended, that the requirements of the applicable provisions of the act and rules promulgated thereunder are satisfied that no adverse findings are necessary, and deeming it appropriate in the public interest and the interest of investors and consumers that said declaration, as amended, be permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said declaration, as amended, be, and the same hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed by Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 49-2496; Filed, Apr. 4, 1949; 8:48 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 12624]

JOHN H. JACHENS

In re: Estate of John H. Jachens, deceased. File No. D-28-11016; E. T. sec. 15437.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Ada Jachens Ahlers, also known as Ada Jachens, Diederich Jachens and Anna Buscher, whose last known address was, on January 21, 1947, Germany, were on such date residents of Germany and nationals of a designated enemy country (Germany);

2. That the sum of $3,149.48 was paid to the Alien Property Custodian by Carl F. Jachens, administrator, c. t. a. of the estate of John H. Jachens, deceased;

3. That the said sum of $3,149.48 was accepted by the Attorney General of the United States on January 21, 1947, pursuant to the Trading With the Enemy Act, as amended;

4. That the said sum of $3,149.48 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof were not within a designated enemy country on January 21, 1947, the national interest

of the United States required that such persons be treated as nationals of a designated enemy country (Germany) on such date.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property by acceptance as aforesaid.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 5, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2505; Filed, Apr. 4, 1949; 8:49 a. m.]

[Vesting Order 12937]

HENRY WEBBLING

In re: Trust u/w of Henry Webbling, deceased. File No. D-28-9578; E. T. sec. 13155.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Herman Dierken, Anna Dierken, Marie Dierken, Frieda Dierken and Josepha Dierken, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the trust created under the will of Henry Webbling, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by Richard T. Carroll, as trustee, acting under the judicial supervision of the Probate Court of the State of Ohio, in and for the County of Hamilton;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 11, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2506; Filed, Apr. 4, 1949; 8:49 a. m.]

[Vesting Order 12984]

MARIAN DEC. WARD ET AL.

In re: Trust agreements dated May 27, 1938 and July 25, 1941 between Marian DeC. Ward, trustor, Henry DeC. Ward, trustee, and Marcus Morton, Jr., co-trustee. File No. D-28-11083 G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Egbert Mohlau, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof, in and to and arising out of or under those certain trust agreements dated May 27, 1938 and July 25, 1941, by and between Marian DeC. Ward, trustor, Henry DeC. Ward, trustee, and Marcus Morton, Jr., co-trustee, presently being administered by Henry DeC. Ward, as trustee, 24 Federal Street, Boston, Massachusetts, and Marcus Morton, Jr., as co-trustee with limited powers, 49 Federal Street, Boston, Massachusetts, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 21, 1949.

For the Attorney General.

[SEAL] MALCOLM S. MASON,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-2507; Filed, Apr. 4, 1949; 8:49 a. m.]

[Vesting Order 12985]

MARIE WILKE

In re: Estate of Marie Wilke, deceased. File No. D-28-10606; E. T. sec. No. 16775.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Ernest Bischoff and Clara Feiggs, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof, and each of them, in and to the estate of Marie Wilke, deceased, is property payable for deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by George J. Schmeman, as trustee, acting under the judicial supervision of the Probate Court for County of Wayne, Michigan;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 21, 1949.

For the Attorney General.

[SEAL] MALCOMB S. MASON,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-2508; Filed, Apr. 4, 1949; 8:49 a. m.]

[Vesting Order 12996]

PAULINE SCHAIBLE ET AL.

In re: Bank account owned by Pauline Schaible, Heinrich Schoettle, Wilhelm Schoettle, Luise Schoettle, Karoline Kling, Friedrich Kraft, Eugen Kraft, Michael Steininger, Frida Steininger Keller, Maria Wolfinger also known as Marie Wolfinger, and Karl Friedrich Steininger also known as Friedrich Steininger. D-28-12552-C-1/E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the persons whose names and last known addresses are set forth below:

Name and Address

Pauline Schaible, Neubulach, Kreis Calw. (Wttbg.), Germany.

Heinrich Schoettle, Neubulach, Kreis Calw. (Wttbg.), Germany.

Wilhelm Schoettle, Frankfurt a. M. Friedbergerlandst 134, Germany.

Luise Schoettle, Neubulach, Kreis Calw. (Wttbg.), Germany.

Karoline Kling, Pforzheim, Turnstrasse 9, Germany.

Friedrich Kraft, Pforzheim, Kaiser Friedr. St. 31, Germany.

Eugen Kraft, Pforzheim, Kaiser Friedr. St. 31, Germany.

Michael Steininger, Maienbach, Germany.

Frida Steininger Keller, Bad Liebenzell, Kreis Calw. (Wttbg.), Germany.

Maria Wolfinger, also known as Marie Wolfinger, Schwann, Kreis Calw. (Wttbg.), Germany.

Karl Friedrich Steininger, also known as Friedrich Steininger, Maienbach, Germany.

are residents of Germany and nationals of a designated enemy country (Germany);

2. That the property described as follows: That certain debt or other obligation of the Atlas National Bank, 518 Walnut Street, Cincinnati, Ohio, arising out of a savings account, account number 30763, entitled "Pauline Schaible, Heinrich Schoettle, Wilhelm Schoettle, Luise Schoettle, widow of Johannes Schoettle, and Gdn. of her minor children, Luise Maria, Hans Walter, Else, Henrich and Fritz Schoettle, Karoline Kling, Maria Wolfinger, Friedrich Kraft, Eugen Kraft, Michael Steininger, widower of Emilie Steininger, Karl Friedrich Steininger and Frida Steininger Keller, as 'nationals' of Germany, adult children and heirs at law of Emilie Steininger, Dec'd. By: Nippert & Nippert, Attorneys-in-fact", maintained at the aforesaid bank and any and all rights to demand, enforce and collect the same, subject however to any and all lawful liens of Nippert & Nippert, 2116 Union Central Building, Cincinnati, Ohio, for attorneys' fees.

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Pauline Schaible, Heinrich Schoettle, Wilhelm Schoettle, Luise Schoettle, Karoline Kling, Friedrich Kraft, Eugen Kraft, Michael Steininger, Frida Steininger Keller, Maria Wolfinger also known as Marie Wolfinger, and Karl Friedrich Steininger also known as Friedrich Steininger, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 24, 1949.

For the Attorney General.

[SEAL] MALCOLM S. MASON,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-2509; Filed, Apr. 4, 1949; 8:49 a. m.]

[Vesting Order 12983]

ARMIN (FRED) VETTER

In re: Estate of Armin (Fred) Vetter, deceased. File No. D-28-8937; E. T. sec. 11223.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Wilhelm Schnieder, Armin Schnieder, Guenther Schnieder, and Juergen Schnieder, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the domiciliary personal representatives, heirs at law, next of kin, legatees and distributees, names unknown, of Berthold Vetter, deceased, and heirs, names unknown, of Richard Vetter, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Armin (Fred) Vetter, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

4. That such property is in the process of administration by Register of Wills, District Court of the United States for the District of Columbia, as depositary, acting under the judicial supervision of the District Court of the United States for the District of Columbia;

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof; the domiciliary personal representatives, heirs at law, next of kin, legatees and distributees, names unknown, of Berthold Vetter, deceased; and heirs, names unknown, of Richard Vetter, deceased, are not within a designated enemy country, a national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 21, 1949.

For the Attorney General.

[SEAL] MALCOLM S. MASON,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-2488; Filed, Apr. 1, 1949; 8:53 a. m.]

[Vesting Order 13086]

JOHN E. ROBERT AND KEOKUK NATIONAL BANK

In re: Declaration of trust by John E. Robert, dated October 25, 1935, and on said date accepted by Keokuk National Bank of Keokuk, Iowa, as Trustee. File No. F-28-15032; E. T. sec. 13738.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Louise Robert and Ida Robert, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to and arising out of or under a certain Declaration of Trust dated October 25, 1935, by and between John E. Robert and the Keokuk National Bank of Keokuk, Iowa, as trustee is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by R. J. McCleary, as Successor Trustee, acting under the judicial supervision of the District Court

of the State of Iowa, in and for the County of Lee;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 30, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-2510; Filed, Apr. 4, 1949; 8:49 a. m.]

[Vesting Order 12982]

ALICE MARIE TEGETMEIER AND REGINALD W. PRESSPRICH

In re: Trust agreement dated August 22, 1929, between Alice Marie Tegetmeier, settlor, and Reginald W. Pressprich, trustee. File No. F-28-78-G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Gabrielle Margot Felber, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country, (Germany);

2. That the issue, names unknown, of Alice Marie Tegetmeier, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified insubparagraphs 1 and 2 hereof, and each of them, in and to and arising out of or under that certain trust agreement dated August 22, 1929, by and between Alice Marie Tagetmeier, settlor, and Reginald W. Pressprich, trustee, presently being administered by Reginald W. Pressprich, 68 William Street, New York, New York, trustee,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof and the issue, names unknown, of Alice Marie Tegetmeier, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 21, 1949.

For the Attorney General.

[SEAL] MALCOLM S. MASON,
Acting Deputy Director,
Office of Alien Property.

[F. R. Doc. 49-2487; Filed, Apr. 1, 1949; 8:53 a. m.]